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भारत सरकार **GOVERNMENT OF INDIA** गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

अन्भाग SECTION

पत्राचार CORRESPONDENCE

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SUBJECT

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पिछले हवाले

Previous References

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Later References

PART

फाईल सं०

File No.....1/27/91-PUBLIC

Volume II

खण्ड

भारत सरकार GOVERNMENT OF INDIA

गृह मंत्रालय MINISTRY OF HOME AFFAIRS

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ताक्षर

Clerk

PUBLIC

अनुभाग Section

टिप्पणियां/पत्राचार NOTES/CORRESPONDENCE

> विषय SUBJECT

BHARAT RATNA AWARD TO NETAJI SUBHASH CHANDRA BOSE - WRIT PETITION REGARDING.

पिछले हवाले Prev.ous References

बाद के हवाले Later References

MINISTRY OF HOME AFFAIRS

Subject:- C.O. 6720(W)/93 - Bijan Ghosh Versus Union of India and Others in the High Court of Calcutta.

This case was discussed yesterday with the Additional Solicitor-General by me along with the Deputy Central Government Advocate.

- 2. I mentioned that Court Notice has been served in this case upon the Attorney-General of India and the High Court expects the Attorney-General to appear or to be properly represented.
- 3. The next date of hearing is 29 September, 1993 (the com Wednesday).
- 4. The original Court Notice, stated to have been served upon the Attorney-General, does not seem to have been received in this Ministry. However, copies of the papers received from the Department of Legal Affairs are sent herewith. The Department of Legal Affairs ID No. 44(5)/93-Judl dated 16.2.1993 says that the Court Notice in original served upon the Attorney-General is enclosed. However, it has not been received in this Ministry.
- 5. The Attorney-General is already aware of this case. The Deputy Central Government Advocate may please get in touch with him and arrange for the Attorney-General to be represented in Court on 29 September, 1993.
- 6. During discussion yesterday, the Additional Solicitor-General suggested that we should seek adjournment on 29.9.1993 after filing the Affidavit claiming privilege in respect of the records. On the next date of hearing, the Additional Solicitor-General will himself appear on behalf of the Union of India. It is possible that the Attorney-General will also be represented by him in the Court.

7. Necessary action may kindly be taken immediately and this Ministry informed today itself about the position.

of the man

M. Venkateswara Iyer)
Joint Secretary

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Shri P. Parmeshwaran, Deputy Central Government Advocate, Central Agency Section, Supreme Court, New Delhi.

MHA ID No. 1/27/91-Public dated 27.9.1993

Agency Section,
MHA ID No. 1/2

ANTI ONE B MATTER NO. 10 ;

SUPREME COURT OF INDIA.

RECORD OF PROCEEDINGS

TRANSFER XXX Petition (Civil Gri.) No (s) 6 & 7 of 1992

Union of India

Petitioner (s)

Versus

S.F. Anand & Anr.

Respondent (s)

Date: E. 1.1993 This these petition (s) was were called on for hearing today.

CORAM

Hon'ble Mr Justice M.N. VENKATACHALIAN
Hon'ble Mr Justice G.N. FAY
Hon'ble Mr Justice

For the pethioner(s) Riss. A. Subhashini, Adv.

For the respondent(s)

UPON hearing counsel the Court made the following ORDER

Upon motion, the matter is taken on Board.

The matter arises out of an ex-parte order made by the Indore Bench of the Madhya Pradesh High Court. Learned counsel for the petitioner submits that the order which learned counsel calls an extra-ordinary one, interdicts the award of National Honours, such as Bharat Ratna etc. Petitioner's apprehension is that the Award Ceremony Scheduled on the Republic Day on the 26th of January, 1993 or thereabouts should not be hampered by this ex-parte order.

But then if the petitioner is aggrieved by the ex-parte order, it is appropriate for the petitioner to move the Court to vecate it. It is not appropriate on that score to have the main matter itself withdrawn to this Court. If an application for vecating the ex-parte order is moved within three days from today, it will be appropriate for the High Court to consider and dispose of the same most expeditiously. While we abstein from making any

observations on the merits of the metter, we indicate to the High Court the need for disposal as expeditiously as possible and in any event not later than the 20th January, 1993. With these observations, the Transfer Petitions are dismissed. Liberty to mention.

(Dinesh Kurar) Court Hester (MIN ETE SILVE)

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IN THE HIGH COURT AT CALCUTTA

C.O.NO. 6720(W) OF 1993

Bijan Ghosh and Others

Versus

Union of India and Others

AFFIDAVIT OF SHRI N.N. VOHRA, SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS

I, N.N. Vohra, Secretary to the Government of India, in the Ministry of Home Affairs, do hereby solemnly affirm and state as follows:-

- 1. The Hon'ble High Court at Calcutta has, during the hearing of the above-cited matter, namely, C.O. 6720(W) of 1993, ordered the production of all the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose.
- 2. I, as the Secretary to the Government of India, in the Ministry of Home Affairs, am the Head of the Department, and I am as such in control of, and in charge of its records. I am filing the incresent affidavit in my capacity as the Head of the Department.
- 3. I am filing the present affidavit claiming privilege, under Sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, in respect of the records pertaining to the declaration of the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose. I am claiming privilege in the following circumstances.
- 4. The records ordered to be produced by this Hon'ble Court in the above-cited matter are unpublished official records relating to affairs of State, and contain communications made to public officers

in official confidence. The disclosure of the records would cause injury to the public interest. As such, they are protected by Sections 123 and 124 of the Evidence Act. The disclosure of the records would also be violative of the mandatory provisions of Article 74(2) of the Constitution inasmuch as the records contain advice tendered by the Ministers to the President.

- 5. I submit that the records ordered to be produced also belong to a class of documents which it is the practice to keep secret for ensuring the proper functioning of the public service. The records include notes and minutes by officers and Ministers on files, a Note submitted to the Cabinet Committee on Political Affairs and the decision of the said Committee, all of which are classified as Secret.
- 6. I have carefully examined the question as to whether the disclosure of the records would cause injury to public interest, and am bona-fide satisfied that their disclosure would cause injury to public interest, and that public interest would suffer thereby.
- 7. In the circumstances, I withhold permission to produce the said records or to disclose their contents or to give any evidence erived therefrom, and claim privilege under Sections 123 and 124 of the Evidence Act, read with Article 74(2) of the Constitution, specifically in respect of the following contents of the said records:-
- (i) Copies of letters exchanged between the Prime Minister and the President regarding the Award of Bharat Ratna posthumously to Netaji Subhash Chandra Bose, under Article 74(2) of the Constitution;
- (ii) Minutes of the Prime Minister and the Home Minister, on the relevant file, classified as Secret, regarding the said Award, under Article 74(2) of the Constitution;

: 3 :

- (iii) Notes on the relevant file, classified as Secret, by senior officers of the Government of India including the Home Secretary and the Cabinet Secretary, regarding the said Award, under Sections 123 and 124 of the Evidence Act;
- (iv) Communications made in official confidence to the officers of the Ministry of Home Affairs, regarding the said Award, under Sections 123 and 124 of the Evidence Act;
- (v) Correspondence between the Ministry of Home Affairs and the wife and daughter of Netaji Subhash Chandra Bose, through the Indian Embassy in Vienna, regarding the said Award, under Sections 123 and 124 of the Evidence Act; and
- (vi) Copies of a Note for the Cabinet Committee on Political Affairs (submitted in January, 1991) on the subject of the dispute regarding the ashes of Netaji Subhash Chandra Bose, and also the controversy about whether he is dead or alive, and the decision of the Cabinet Committee on Political Affairs thereon, under Article 74(2) of the Constitution and Sections 123 and 124 of the Evidence Act.
- 8. However, I submit that I have no objection to the records in respect of which privilege has been claimed being produced for perusal by this Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of privilege.

(N.N. VOHRA)

Olde

DEPONENT

VERIFICATION

I, N.N. Vohra, the deponent above-named, do hereby verify

: 4:

the contents of the above affidavit, and state that the same are true to the best of my knowledge, based on the records mentioned in para 7 above, and nothing material has been concealed.

Verified at New Delhi on this the 27th day of September, 1993.

(N.N. VOHRA)

DEPONENT

SWORN BEFORE ME at Meno Delli at G. A.M. at rems

Certified that the foregoing Statement was declared on sol an affirmation before me which has been read over to the deponent who has admitted is as

correct,

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Notary DELH

Sur hand

S. No . 28 (K)

X No. 0332485215.

F.No.15/B/Home/93./625 248-4959 245 A. 6621

Ministry of Law, Justife & Co. Affairs
Department of Legal Affairs
Branch Secretariat, Calcutta.

184 Markodn 143

4, K.S. Roy Road, Calcutta-1.
Dated, the 6th August, 1993.

To Shri L.B.Sinate Director Ministry of Home Affairs Government of India North Block New Delhi - 110 001.

Sub: C.O. No. (W) of 1992
Bijan Kumar Ghosh
- Vs Union of India & Ors.

Dear Sir,

Enclosed please find herewith the copy of the Affidavit of added respondent No.5 namely, Dr.Sushanta Kumar Mitra for doing the needful.

Thanking you,

Yours faithfully,

Encl: As above.

Jr. Central Govt. Advocate.

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DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA CONSTITUTIONAL WRIT JURISDICTION (APPELLATE SIDE)

In the matter of :

C.O.No.

(W) of 1993;

And

In the matter of :

An application under Article 226 of the Constitution of India;

And

In the matter of :

Bijan Ghosh

.... Petitioner

-Versus-

Union of India and Obhers
.... Respondents

AFFIDAVIT OF ADDED RESPONDENT NO. 5 NAMELY, DR. SUSANIA KUMAR MITHA.

I, Dr. Susanta kumer Mitra, son of Late Nilmony Mitra, aged about 52, residing at 25-A, bag Bazar Street, Cal-700006, by occupation Investigative Journalist and Social Worker, do hereby solemnly affirm and say as follows:-

1. From News papers reporting I came to know that a Writ petition has been moved before this Hon'ble Court on 29th January, 1993 and the same was made returnable after 15 days. When the matter was taken/ on 4th February '93, an oral prayer was made on behalf of me to add me as a party respondent in this Writ application in support of the application, and His Lordship, the Hon'ble Mr. Justice Banerjee was pleased to add me as a party respondent to the writ application being respondent No.5 and all the necessary formalities were waved for addition of parties since His Lordship treated this writ application as a public Interest Litigation. I am a Pn.D. in Journalish and I am in search of the truth since last 15 years about the unsolved mystery of disappearing of Subhas Chancra Bose and reasons of conspicuous apathy on the part of Government of India on Netaji.

A xerox copy of the said order dated 4.2.93 is annexed and marked with letter Ah-I.

AR-I

- 2. I have received a copy of the said Writ petition and understood the contents and purports thereof. I support the cause of this Public Interest Litigation. The so called title 'Bharat Ratna' bestowed upon Subhas Chandra Bose by the President is nonest since such Title was conferred most unconstitutionally.
- 3. & I state that I do support integrally the containts, averments, allegations and submission made in the said Writ

-:: (3) ::-

petition and in addition to that I incorporate the following paragraphs and cause to strengthen the validity, Legality and constitutionally of said petition, which are pertinant for adjudication of the Writ petition.

I state that the Union of India had acted unconstitutionally on conferming the so called title 'BHARAT RATNA' to Netaji Subhas Chandra Bose. Bharat Ratna is treated as the highest Civilian title and it is conferred by the highest executive post of the State that is the President of India. Article 18(1) of constitution stands in the way of confering any title to any person, excepting which are of a military or academic distingtion. Article 18(1) runs as follows: "No title, not being a military or academic distinction, shall be conferred by the State ." Constitution is the supreme law of the land and Article 18 occurs in Part MKI which is being the Chapter of Fundamental hights of any citizen by any way whatsoever, if not emergency is proclaimed. Son not only in case of Netaji Subhas Chandra Bose but of all other persons to whom any title of any order (may it by the highest or the lowest) had been conferred so far by the State, Excepting Military and academic distinction, the and every unconstitutional act on the part of State is liable to be said aside by the Eon'ble Court.

contd p/4

5. The wisdom of the Constitutional makers had been totally dishonoured by this practice of conferring tile to different citizen of India and other EXEME countries. Indian Sub-continent was under the colonial rule of British and the Britishers used to 'purchase' different colonial subjects by conferring some titles, viz. Knight, Koy Bahadur, Sir, etc. To make India liberated from such colonistic garbagesentiment. the makers of the constitution made it categorical and cardinal, theat State shall not confer any title, vertually which supplements the approach and elements of Article 14. Out constitution has a socialistic flavour and as such title and if that is done that will frustrate the fundemental rights of the other citizens to whom no title has been conferred. Title means distinction and bestowed by the pleasure of the Throne and as such no title be there in a Socialistic Democracy. In support of that I quote from Tagore :

" OUPED YEST WELL " XISUS. XISUS. XIZUS SIZUS (5)

and colonialism for a millennium and as a matter of fact the national Leaders could not been able to made themselves free from that slavery mentality and this bad practise of conferring such title is a manifestation of that mentality. Inspite of the wisdom of the constitutional framers, this particular practice of conferring title was adopted by

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Mr. Neheru, who claimed himself as the 'last Britisher' to rule India. If this system of conferring title is allowed to be perpetuated in that typical British manner. with utter disregard to the supreme law of the land, that would be the must undortunate and unwanted practice. Perhaps for that reasons the Union of India did not confer any title to any body when it was run by/Janata Barty/Janata Dal/and to Socialistic Janata Dal. It is a matter of fact, that all the 26 persons who were conferred with the alleged title 'Bharat Ratam' before the Government headed by Narashima Rao, were selected by Neheru-Gandhi family. About such 'Bharat Ratnas' the public opinion is, to satisfy their political need and vested family interest, 'Bharat hatna' were given only to these persons who can satisfy such requirement of Gandhi-Neheru family. Netaji Subhas Chandra Bose, by rank was the 27th person to who the said alleged title was conferred and that too along with the other recipient Maulana A.K.Azad and it took only 45 years to recognise (7) Netaji, if is not motivayed and purposive.

7. Since this so called title has almost become a political gift or victim of entitlement, the Government of India headed by Janata Party in 1977 discarded this title giving ceremony. This 'State recognition' had lost its honour in 1971 when the then Prime Minister, Indira Gandhi,

declared himself a 'Bharat Ratna' and State confer the title upon her, This to put on records that a writ petition is pending disposal before the High Court at Rajasthan, which challenged the 'Bharat Ratna' title conferred upon Neheru, Indira and Rajib Gandhi.

- 8. The public opinion is, had the death of hajib Gandhi be not a pathetic one caused by an accident, the State would not confer the title bharat betna to hajib Gandhi posthumously. As if it is an obligation on the part of Narashima Rao personally. Had there been no death of Rajib Gandhi, Narashima Rao cannot get the chance to be the Prime Minister of India. If contribution to the country is considered, why not lal Bahadur Shastri who also died in foregin land as a victim of violance and conspiracy? That was also a pathetic death cause by an accident but he was not yet teen conferred with title bharat hatna. Simply a pathetic accidental death can made a man 'bharat Ratna'.
 - 9. Bharat Ratna is a title. It is not an award, not a prize, not a decoration or ornamentation. Only title is given posthumously, prize or award is not given posthumously. Every award have a consideration or value attached. Only in case of a title, no such matterial question is involved. Bharat Ratna is not involved with any such matterial consideration, Bharat Ratna is absolutely a title and as such no title can be given by the State to any persons and in true

honour of the Constitution, Bharat Ratan and such similar titles, so far have been given to different persons since Independente, should be taken back and/or withdrawn. And further to that, in future no Titles be given by the State, excepting academic and limitary.

- 10. I state that allged 'Bharat Ratna' has been given to Netaji purposively and with ulterior motives. To declare him dead by the State in official capacity, the plea of conferring him a title posthumously has been adopted. It has been taged with Maulana Azau, only to given the impression to the public that as if this time 'Bharat hatna' have been given only to the persons who is dead. Khan Abdul Gaffur Khan was conferred with Bharat Latna long back and there is no reasons to recognise Maulana Azad long after Gaffur Khan, dispossionately it may be well concluded that the contributions of Azad was much more than that of Abdul Gaffur Khan.
- 11. An Investigative Inquiry was ordered by Chandra Semmar the then Prime Minister of India not only for the cause that the people of India were not satisfied with the findings and reports of the two so called inquiry commission but the Government was in possession of let of documents and evidences which simply over ruled the finding

and reports of the two earlier inquiry commissions but titie till date that order of Investigative Inquiry Commission has not been executed. It was reasonably doubted by the people of India that the State archieve of the then Soviet Russia was in position of authenticated records and cocuments related to the said mystery. The Soveet Russia was disintregated with effect from 25.12.91 and the said State archive became accessible to public. It is presumably doubted that the announcement of bestowing a posthumously titled to Netaji was made in a hurry on 26.1.92. Only to avoid the consequences of facing the truths and facts related to Netaji as lying in State archives of the then Soviet Russia and K.G.B., since became assessible after the Exir Christmas, 1991. It was reported in Hindutan Times dated 5.3.90, Calcutta "Dr. E.S. Yarlova of Soviet Institute of Oriental Studies. Moscow, told Hindutan Times here today that wo Soviet scholers who had been working on the Indian NationxLeaders. had applied to the Government for permission to examine the documents. The documents were categorised as 'top secret' and had never been made accessible". Nation Leaders in last 45 years gave different letters to the then Soviet Russian authorities to hand over the documents and papers related to Netaji but all the times the letters went unanswered. The contensions of those letters were never denied by such authorities. It can be thus concluded that those were admission by such authorities, following the principles of 'admission by non-traverse'.

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Only to turn the fact back most purposively from the mines of information, to shut the doors up from any further inquiry regarding Netaji and the involved mystery, Netaji was declared death under the camouflage of a title conferred posthumously. Instead of causing any further integrated investigation in the different parts of the world in the changed international situations, more particularly from Russia, the Union of India coferred Netaji a title posthumously, which proves beyond all doubts the purposive and perversive intensions in conferring such title. Only to confer a title POSTHUMOUSLY, Netaji was bestowed with 'Bharat Katna'.

12. After 11 years from the date of the mystery, an one man commission was constitute to find out the facts and the truth behind his mysterious disappearance. Such committee was ordered by the then Prime Minister Mr. Neheru under the public demand. It was named Shah Nawaz was throughly disagreed by the country. Mr. Shah Nawaz was subsequently appointed as a cabinet Minister of Neheru's minister.

and observations of Netaji Inquiry committee has got no bearing

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and is not binding upon, since subsequently one man judicial inquiry commission was apponted in 1970 by Indira Gandhi, the then Prime Minister for the same business. Hence Shah Nawaz Committee became a ullity. The said inquiry commission namely Khosla Commission submitted is report in the parliament in 1974. It was announced on the floor of the parliament at the time of submitting the report of Khosla Commission that the inquiry committee has submitted a report of some 237 pages (as recorded in Parliamentary Proceedings) but subsequent. It was found that the volume of Khosla Commission report is 127 pages. The findings of Shah Nawaz Committee report and 127 pages. The findings of sceept the said findigns too.

12A. The terms of reference of the Netaji Inquiry

Committee 1958 were "to entire into and to report to

the Government of India on the circumstances connerming

the departure of Netaji Subhas Chandra bose from Bangkok

about the 16th August, 1945, his alleged death as a re
sult of an aircraft accident and subsequent developments

concerned the rewith". The concluding portion of the

report Chapter 7, termed as Recommendation, signed by

Shah Nawaj Khan the Chairman and S.M.Maitra, the member

of the Committee which runs as follows:

"The Committee has come to the conclusion that Netaji Subhas Chandra Bose met his dealth in an

air crash, and that the ashas now at Renkoji temple, Tokyo are his ashas, Rev. Moshijuki and the trustees of the Renjoki temple have already kept the ashas for a number of years. Their services deserve to be recognised. If the ashas are taken to be genuine Renkoji temple cannot obviously be their final resting place. Netaji Subhas Chandra bose died ten years age. It is time that his ashas were brought to India with due honour and a menorial erected over them at a suitable place. This we recommend for the serious consideration of the Government of India It may be mentioned in htis connection that influential aides in Japan are considering putting up a memorial to Netaji in that country. It Netaji's mortal remians are honoured and his ideals kept alive, then one could truly ask flwhere is deaths sting where, grave the victory?"

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genuine" is not based on forensic findings or any sorts
of post - mortem analysis. It is partinent to mention
here that when the two Prime Ministers of India visited
the Renkohi Tample, in their comments on the visitors
took none did make any remarks about Netaji. Neheru recorded
on the visitor's book: "May the message of Buddha bring
peace to mankind".

Indira Gandhi wrote in the Visitors book something not related with Netaji.

Commission, 1970 were: "Inquire into all the facts and circumstances relating to the disappearance of Netaji Subhas Chandra bose in 1915 and the subsequent developments connected there with and make its report to the Central Government". Mr. G.D.Khosla, I.C.S., and ex-chief Justice of Punjab High Court in submitting his report varially travelled beyond the terms reference and brought so many unnecessary things even the alleged marriage of Netaji- Which most conclusively proves the perversity of the report submitted by Mr. G.D.Khosla.

Khosla wrote and published a book, namely the 'last days of Netaji's which book conclusively said that Netaji died in the alleged plane crash in 1945. Such publication of the book is binding piece of evidence that Justice Khosla was published with the specific purpose.

There were a number of derogatory comments about Netaji in the said book for which Mr. Dwijen Chandra Bose,

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Banksai Court, Calcutta. Justice Khosla tendered unconditional apology before the Learned Chief Matraplatan Metropolitan Magistrate and the book was ordered for withdrawn from circulation. Khosla also tenered unconditional applogy before the Previledge Committee of Parliament for writting and publishing the said book. Apart from alllother grounds, and the Reports of Khosla Commission turned to a non-est, expired to voice abinition for the reasons stated above.

The then Prime Minister Mr. Morarji Desai on 3rd September, 1978 announced on the floor of Parliament that;

"Shak Nawaz Committee and knosla Commission held the report of Netaji bose's death as true. Since then reasonable doubts have been caused on the correctness feached in the two reports and various important contradiction in the testimeny of the Witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions and those records, Government find it difficult to accept that the earlier conclutions are decisive ".

On 11th April 1979 the Minister of State of the Union Ministry of Home, Mr. Dhaniklal Mondal made a cristal

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clear statement in the Parliament with regard to the perported attempt of bringing of the alleged ashes of Netaji in India from Renkoli temple, that it was feasonably doubted about the inquiry reports submitted by the earlier two commissioners about the death of Netaji Subhas Chandra Bose and it was not possible for the Government of India to accept those reports as conclusive, and accordingly it was not possible for the Government of India to accept the proposal of Jufiara in such premises.

So, it is more than conclusive that findings and reports of Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission, 1970 were/are noniest. The Government of India now can not confer any posthumous title upon Netaji replied upon the heports, fingins and observation of the two Inquiry Commissions. The heports of the said two Inquiry Commissions, which were virtually 'steel-born-babies', x in no way can help the Government of India in bestowing any title etc. upon Netaji POSTHUMOUSLY.

14. It is reasonably presumed that both the Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission 1970, which were formed only to specify the public demand not to search out the Truths sincerely, both such Inquiry Commission declared that Netaji died on the alleged plane crash on 18th August, 1945.

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The Government of India headed by Chandra Sekhar declared Investigative Inquiry that may be called the third Netaji Enquiry Commission, which will be held to investigate the sustained unsolved a mystery denove.

So it is concluded will that the Government of India had never accepted the Reports and findings of two earlier Inquiry Commissions. Government of India never acted upon the Reports of the said two commissions. Thus it is well concluded that both the said Netaji Inquiry Commissions 1956 and 1970 respectively became nullity, void ab-initio and absolutely non-est.

14A. On 21.9.1945 at the Bombay Session of All India
National Congress, Maulana Azad the then Congress President
told the delegates "The directionstances in which the news of
the death of Bose had reached us and the sources responsible
for the announcement do not anke certain that Bose is
infact dead. Therefore, his name should not appear in a list of those who died since the last Session of All India
National Congress" (that is for at last 3 years).

any session of A.I.C.C. for thee death of Netaji. The Government of India formed by the Congress Party is headed by Mr. P.V.Narashima hao, who is also the President of Indian National Cognress, for what reasons considered Netaji dead and conferred a title upon him posthumously

-:: (13A) ::-

is really ridiculous. If the Governments of India considering him dead, why not the Congress Party observed any condolence for Netaji who was twice elected as the President (Rashtrapati) of Indian National Congress. If will proved from the meetings of A.I.C.C.

14B. The most comspiceous thing is the "death news" upon which the entire would banked upon and the propaganda of death was published. The alleged plane crash reported to be happened on 18th August 1945 at about 2 p.m. (there are different contradictory views) was first announced by Domein News Agency (Private news agency of Japan)" on 23rd August 1945 about that incident. It stated that Netaji was seriously injured in an air crash at Taihoku on 18th August 1945 was treated in a hospital in Japan and died at midnight.

"T(Bose) while on the way to the eapital, as a result of an accident to this Aircraft at Taiboku at 1400 hrs. On the 18th August was seriously injured and died at mid-night on the same date. His body has been flown to Tokyo by the Formosan Army.

I hage thanked the Formosan Army, for their kindness.

The substances in both the news indicates a common element that Netaji's body was flown to Tokyo, so it could

-:: (13B) ::-

not stand to reason that his body was cremated at Formosan.

So the basic death news there was no evidence, not even a whisper that the body of Netaji was flown to Formosan from Japan.

No document was produced neither before the Netaji Inquiry Committee or the Netaji Inquiry Commission to know that at least one plane flew in the akies on Taihoku on 18th August 1945.

14C. So called Doctor's evidence was at such veriance from one another and only from their own statements given before Anglo-American Intelligence, Netaji Inquiry Committee and Netaji Inquiry Commission that none in his sence could believe their testimony.

Your petitioner crave leave to produce those documents at the time of hearing. He further crave leave to produce the evidences led before Netaji Inquiry Committee, 1956 and Netaji Inquiry Commission, 1970 and the Boak of Samar Guha, namely, "Netaji- Dead or Alive".

14D. Every body/Institution/Authority most successfully failed to establish the death of Netaji and surprisingly Government of India in trying to prove it by donfering a Title postnumously "There was no official record of Subhas Chandra Bose's death in my Archives" - Mountbatten replied

on 10.3.78 to the letter of Mr. N.G.Gore, the then Indian High Commissioner at London.

14E. It is an established fact that the Congress Party had an "apathy & alergy" about Netaji, manifestation of that had been well establishedly spreaded out through out the dicades in different Government Orders, speaking and unspeaking.

It is quated from the file of "Ministry of Defence" which was marked as "confidential".

N. 158211.1

Subject : Photes

H.Q. Bombay Sub-Area

Colaba, Bombay-5

11th February, 1949.

It is directed that Photos of Netaji Subhas Chandra Bose be not displayed at prominent places in Unit Lines, Canteens, quarterguards or Recreation Rooms.

S N K-VL

Sd/- P.N.Khanduri Tel: 35081, Ext. 41 Major General Staff.

The INA personnels were most badly treated in post British India, no recognition was given to them none of them were reinstated in military proving the allegence to their "British Master". This was the treatment, what Government of India extended to Netajt. It is really surprising what promted Government of India to confer him the highest civilian Title after so many year.

15. Mr. Samar Guha published a book under the title
"Netaji Dead or Alive"? in March 1978. The book interally
contemplated about doubts of the death of Netaji and probabilities of His reminaing alive. The book had taken into
account of all the views but was retionally most successful
in conclusively proving that Netaji still alive. The reports

of the said two inquiry commissions were throughly scaned and all the contents of such reports were retionally analed altogether. The first adition of the book sameximum rit was exhausted within a month. Second edition of the book came in April 1978. The book created such a stir that latter a 32-Para UNI despatch on the book was given publicity by all the national and regional news papers all over the country. Such a book was released by the then President of India o Mr. N.S. Reddy on 7th March, 1978 in a ceremony held in the Parliament Annex. The function was presided by the Lok Sobha speaker, Justice K.S. Heged. The ceremony was widely reported in the national press. The book which claimed and vartually was able to knock down all the findings, observations and reports of Netaji Inquiry Committee 1956 and Netaji Inquiry Commission 1970, was released by the president concluded that the fingings and reports of the

- 28 -

-:: (14) ::-

Netsji Inquiry Committee and Netaji Inquiry Commission

were not accepted by the Government of India, neither in

official capacity nor in informal manner, nor ever by the

country man as a shole. In such situation the Government

of India cannot claim that they have gue the title to Netaji

posthumously depending upon and relying on finding and

reports of Netaji Inquiry Committee 1956 and/or Netaji Inquiry

Commission, 1970.

one Nand Lal Sharma, moved a public Interest Literagation before the Rajasthan High Court being S.B.Civil
Writ petition No. 902 of 1984 alleging interalia that
the reports and findigns of two Netaji Inquiry Commissions
could not discover the Truth relating to Him, His mysterious disappearance and causes of non-returning to mother
land, and prayed for a High Level Investigative Inquiry. He
replied upon 63 sets of documents, including the reports,
findings evidence and witnesses of Netaji Inquiry Committee,

The Union of India appeared but did not countested of affidavits, though exhaustive opportunity

-11 (16) ::-

was given by the Court. His Lordship, the Hon ble Mr. Kapoor
Justice delivered the Judgement of 18th January 1986 derecting the
Union of India to hold a High Level Investigative Inquiry
Commission with regard to Netaji within six months from date
of order taking inot due consideration of all the said 63 sets
of documents, and other sets of documents which may be
available in other parts of the world relating to the subject
and to submit a report thereof. Conspiquously the said petition
died in a street accident. In view of the abovesaid Judgement
it is however established that no POSTHUMOUS Title can be
coferred upon Netaji holying upon the Reports of Netaji
Inquiry Committee, 1956 and/or Netaji Inquiry Commission, 1970.

I crave leave to produce certified copy of the said Judgement at the time of hearing.

17. Had this title been given in recognition to his service to Nation why it was not given to Mahatma Gandhi? Was the contribution of Gandhiji was less than that of Netaji? Or, if Netaji is 'Bharat Ratna' then why not Gandhiji? If Gandhiji is above the title why Netaji would be subjected to such title. Is it a declaration by State without saying that Netaji's contribution was less in comparison to others? Apart from the emotional assessment of the Indian, I rely upon the statement of a Britisher, a Prime Minister of Britian, under whose supervision the power so transfered

contd p/16

from Her Magistry to 'We the People' in 1947. Clement Attled was interviewed by Mr. P.B.Chakraborty, the then Chief Justice of High Court at Calcutta, who was then the acting Governing of West Bengal. Mr. Attle confessed that it was the Indian National Army (INA) which influenced defence of the British India and there was massige arosion of loyality of Indian defence personnels to the Crown. To avoid another Indian Nutiny as caused in 1857, British left India with honour and dignity. It was also broadcasted in All India R dio at that time and Mr. R.C. Majumder, the eminent historian, also reproduced the statement in his book
"History of Freedom Movement in India".

by quoting the statements and references made by different persons in the country and aboved about Netaji. I am only relying on quotation, address and title given by the person who was himself an institution. When this subcontinent was under the yoke of Britsh imperialism, the nationalists much depended upon and relyed to the opinions and statements made by the representative Thinker, namely Habingranath Tagore. It is Tagore who addressed Mohan Das Karamchano Gandhi as 'Mahatma' some-time in 1921 and the Nation expected that title. When Subhas Chandra Bose resigned from the post of the post of President, Indian National Cognress in 1939, for some internal conspiracy of Congress High Command,

-1: (17) ::-

Tagore addressed Subhas Chandra Bose as 'DESHANAYAK' that means the leader of the Nation. When Mahajati Sadan was inaggurated after that incident, Habindranath Tagore conferred Netaji the title 'YUBABAJ' i.e. the 'Prince of Mother India' and it goes without saying that the whole Nations expected him as Tagore described.

documents, only one document, which is one of the most cardinal documents I am referring here I crave leave to produce other documents and papers at the time of hearing on these aspects.

This letter dated 22.7.46 of Khurshed Naocroji to Louis Fisher evidentially says beyond all doubts that Netaji was not died in alleged air crash dated 18th August, 1945, and he was very much harbouring at the then societ Bussia, planning for a strategic invesion to India with the help of hussia.

Which were very much manifested inbetween the lines of the letter that it was 'letter of desparate request' to the Allied Forces to decide and do that 'factor', to put an decisive and to Subhas Chandra Bose to ensure European allience to post-independent India, not a pro-Russian Indian sub-continent.

A true and correct copy of the letter is annexed and marked with the letter AR-II.

-:: (18) ::-

20. Before going in details in this aspect, I beg to sketch the background of freedom struggle of India in a few lines. This subcontinent was under the Colonialism followed by Imperialism for about a milienium. Approximately 700 years under the Arab Imperialism and the following about 300 years under the Eupopean imerialism in which Britishers had a pre-dominence to rule. During the dawn of European Colonialism, the political power was first enjoyed by the East India Company on behalf of the Britishers. Che Year after the Indian Mutiny 1957, the power was transferred from the East India Company to Her Majesty by virtue of an act, namely Government of India Act 1858. And one year after another Indian Mutiny, 1946, (caused by I.N.A.), the power was transferred from Her Majestry to 'We the People' by virtue of an Act, namely, Indian Independence A t, 1947. The United Ainguom was very successful in established the fact before the world that Her Majestry gifted politicalfeeedom to the people of India, and that too by virtue of an Act passed in British parliament. Virtually it was "the continuation" - a continuation of the authority, a continuation in every aspect, just the political, power was transferred. The struggle for freedom from the yoke of British Imperialism was vertually longed in two schooling. One is, doctrine of active initiation, named as revolution and other is, dectrine of passive resistence, named as

contd ... p/19

-:: (19) ::-

non-comperation on but subsequently named as non-violance The members of the first camp were Rashbihari Bose, Khudiram, Chandrasekhar Azar, Tilak, Savarkar, Bhagat Singh Subhas Chandra Bose and many others, and the members of the other camp was lead by Mohandas Karamchand Gandhi, who all along pleaded for domination Status instead of absolute Independence. Virtually this Gandhian approach of non-violence used to give every political milage administrative dividend to the huler to subject this sub-continent under the British Imperialism. Since 1930s, the said two camps were led by Netati and Gandhiji respectively. These said two camps culminated differences all most in every aspect, both in theory and practier. The conflict which manifested since 1928 or earlier, became totally sufface in 1938 when Subhas Chandra Bose was first elected as All India Congress President. The two top leaders locked their borns, which culminated, in compalling Subhas Chandra Bose resigning from the post of All India Congress President, soon after he was re-elected in 1939. After the end of 2nd World War, India achieved political freedom following foot-steps of Gandhi at the we price of partition of land, lives of crores of people and huge drainage of property. Just Power was transferrred, but it was a "Continuity" in every sense. volumes of documents were prepared for transferring power from Crown to "We the People" which was agreed by and between two parties i.e. Britishers and Congress and this agreement is named as 'Transfer-of-Power 1942-47'. It was agreed that all the documents related to

-:: (20) ::-

transfer of power will be published after 50 years since commencement of Constitution i.e. 2000 A.D. The most obnoxiously surprising and peculiar thing on earth is that a country achieved political freedom by virtue of an agreement which was made and kept absolutely unknown to the people of the land. Thus the Congress led freedom birth struggle gave with to two Dominian Status, namely India and Pakistan only political freedom was given, not anything else. The land was partitioned first as per demand of Jhina, thereafter Dominion status was given to two halves.

AR-III

A kerox copy of the Statesman dated 15.8.47 is annexed and marked with the letter AH-III.

21. The five fateful years leading to the transfer of Power, begining with the Cripps Mission in March 1942 and ending with the Transfer of Power to India and Pakistan on 15th August, 1947, were the most Critical in Indo-British relations and the entire Documents are not expected/scheduled to be published till 1999. Though between 1970 and 1983, twelve volumes of the Transfer-of-Power 1942 - 7 were published, under the editorship of a distinguished historian, Prof. Mansergh and the publication claims to be dispassionately independent and exemplary impartiality, but it may be said of the Transfer of Power that this remarkable series of official documents published in 12 volumes tell their own tale. The anme of

-:: (21) ::-

Subhas Chandra Bose occured in Volume VI and VII of the
Transfer of Power with a humber of noted Missing records,
discontinued information and lost documents. I some
places, reference of records/documents have been given
but not the records/documents themselves- which conclusively
hut must the says that Subhas Chandra Bose and His I.M.A. were must
most important premises in those Agreements, namely Transfer of
power. It is partinent here to mention that in the records
of British Archives and Sedition Reports the name of Subhas
Chandra Bose was categorished as ANAACHIST and those of
Neheru, other followers of Gandhiji, were catagorised as
reconciler/Moderator.

22. It is reasonable doubted that there were some clauses in 'transfer of Power' which relates to Subhas Chandra Bose, with regard to the post-maworld-war-treatment as a 'War Criminal' as contemplated by Allied Forces. The InN.A. was declared War against britain for the liberation of India. I.N.A. was headed by Subhas Chandra bose. After the World War Britain tried I.N.A. Personnels as War Criminal held them guilty, but subsequently they were personed by the Crown. Perhaps Netaji is an War Criminal. It is very pertinent to mention here that Britian/America or alled Force tried different War Criminals but none of the Countries did ever publish any list of War Criminals at

-1: 2 ::-

point of time. This question - 'whether Netaji was a War Criminal or not'- was severally asked in different perspective, but Government of India could not give any satisfactory answer. It is reasonably doubted that Neheru conceded to that point, as may be stipulated in ('transfer of power', that Subhas Chandra Bose would be handed over to the Allied Force in case of his return to India. For this reason, in 1945 Neheru made a Press Statement in Simla "It would be wrong to adopt any vindictive attitude towards him (Subhas Chandra Bose). It was, however, different matter as to under what condition he would be allowed to return to India".

Perhaps this prevented Netaji from getting back in His mother land.

In reply to the question of Mr.Thevar, dated 4th

April 1956, Shah Nawaz Khan (Netaji Inquiry Committee, 1956)

replied "The Government of India is not in a position of
any information on this point whether Netaji is a War

Criminal or not. This information lies with the United

Kingdom and the United State of America". The Chairman of
both Inquiry Committee and Inquiry Commission hopelessly
answered to this question whether the Government of India

can state categorically that the declaration of Allied

Forces with regard to the War Criminal does not bound

Government of India or not, and whether Netaji be handed over
to the Allied Force for trying as War Criminal or not.

-:: (23) ::-

Parliament. India is not totally and absolutely Independent, just a republic, subject to the Crown of United Kingdom.

India achieved her political-freedom in 1947 and became republic on 26th January 1950. Mounbatten's plan for Partition was accepted after failure of Cabinet Mission's Plan. The British Parliament Swiftly implemented the decision to partition India. A bill (which became the few Indian Independence Act, 1947) was introduced in the House of Commons on 4th July 1947 and was passed on 215th July.

The next day, it was passed by the House of Lords. There was no amendments. It received the Royal Assent on 18th July.

That Act created the two independent Dominion of India and Pakistan.

To the Crown, India remains dominion outside Britain.

In 1956 it was reported in 'Amrita Bazar Patrika' that a

Magistrate in London in his Judgement said that 'India is

not a sovereign republic - a part of Her E Majesty's domination

outside the United Kingdon". This was also written in a

printed form which was prepared as per Matrimonial

Proceding Act 1960, of the United Kingdom. This was brought

in the notice of Government of India by one Kashi Kanta Moitra,

the then Member of Assembly of West Bengal, who was also a

contd p/2

-:: (24) ::-

taken by Government of India against such order. It is said that Netaji has to wait till 2000 A.D. when India will achieve Her Sovereighnty, absolutely, and cease Her membership from Commonwealth, the transfited form of British Imperialims. The Crown is the 'symbolic' head of the Commonwealth and a every member of Commonwealth is subject to the Crown.

Copy of the Newspaper is annexed and amarked with

24. Till 1971, the President of India and the Governors were not allowed to use the Indian National Flag on their residences and Cars. They used or had to use their personal flags, it was reported by the Press Trust of India on 30th July, 1971. Surprisingly enough, the Act XXVI of 1971, namely Prevention to National Flag and National Authen Act came in 1971.

A xerox copy of the Newspaper reporting the News, is annexed hereto and marked with the letter AR-V.

25. The Constitution is the supreme law in the land and Article 19th which occurs in Part III, Fundamental Rights,

-:: (25) ::-

contemplate different Freedoms and obviously which includes freedom of information. Article 21 ensures rights to know since right to life became noniest if there is no knowledge. Ensuring unedited knowledge and uninterrepted access to proper information are elements of Article 21. The Hon'ble Supreme Court has held that right to inhaul fresh air in concomitent to right to life. So most elementarily. Right to know is concomitant to fundamental right, as ensured under Part III of the Constitution. The directive principle which are fundamental in the government of the country can not be isolated from the fundamental rights guarnted under Part-III. This principle have to be read into the fundamental rights, both are supplementary to each other.

The right to know compendium explanation of all those rights which goes most unforce because they are basic to dignify enjoyment of life. Life means not here existence but the quality of life. It extends to full arrange of conduct which the individual is free to persue. The right to know flows directly from right to life. The right to life under the Article 21 and the eignity of the individual can not be assured unless it is accompanied by the right to know.

The citizen of India have ever might to know that were written in the Documents of Transfer of Power, 1942-47 and that are there in the National Archives of India. Even

(213

-:: (26) ::-

further to that what are there in State Archieves of different countries of the World about Netaji and Indian citizen(s) who are lost or made to be lost. The Government of India did not take any endeavour to search out the truth about Netaji, there was no honest and sincere attempt on the part of the Government of India to solve the mistry about Netaji which was in total disregard to the fundamental rights of citizens of India, rather on the contrary it may be concluded that there was a cold deliberation on suppress the truth and information from the people of the land about Netaji which is violative to Articles 19 and 21.

The public mind, which has been reflected in different seminars, resolutions, letters to authorities and press publication, have reasonably considered that Government of India has resorted a perverse way of honouring, by conferring Netaji the alleged title, 'Bharat E Ratna'. Moreover since the doctrine of priviledge and doctrine of pleasure are originating factions in bestowing such a title to a person, naturally it has become an expercise of arbitratiness. Least, not the last, it could be said as so much controversies have been arosed about this alleged title 'Bharat Batna' that conferring such title to Netaji sufferes from vide of malafies. The Government of India should immediately withdraw this alleged title by an valent order, conferred upon Metaji on Tannuary, 1992.

-:: (27) ::-

27. The act, on the part of the Government of India, in conferring the alleged title 'Bharat Ratna' to Netaji Subhas Chandra Bose posthumously is unconstitutional on the following grounds, which are not contadictory to each other, amongst other;

G_R_O_U_N_T_S

- I. For that conferring any title by the State to anybody is unconstitutional, ultravires to article 18(1) of the Constitution of India.
- II. For that the article 18(1) stands in the x way of conferring the alleged title 'Bharat Ratna' to Retaji Subhas Chandra Bose of any title to anybody, excepting academic distingtion and military galantry.
- III. The approach and conduct on the part of the Government of India bout Netaji is in total disregard to Articles 19 and 21.
- IV. The government of India has never accepted the report and findings of Netaji Inquiry Committee 1956 and Netaji Inquiry Commission 1970, title cannot be posthumously, conferred where the State has never declared him dead and/or considered him dead and as such 3rd Enquiry Commission was ordered by the Prime Minister in 1985, which is pending disposal.

-:: (28) ::-

- V. For that in the camouflage of posthumous title, the Government of India wants to put an end on the unslove mystery of Netsji's disappearace instead of sincere attempt for fishing out the truth about him.
- The Government of India, mainly headed by Gandhi -28. Heheru family had been all along very much indifferent about Netaji. This indifference was very calculative and deliberative. Many people wrote different books on "etaji giving all wrong informations now sense reasoning, misleeding informations about his disappearance and death but no step has yet been taken from the Government of India. Even a man, known as 'Saint of Solmary' was marryfully allowed to be established as Netaji in public mind who just disappeared after the death of Neheru. Different rumours, colourful stories, disputed facts and misleading information were staring allowed to propogate with a sense of perpituation about Netaji, disregarding a personality like him and conspicious scilence on the part of Covernment of India is concerned.
- 29. It is most himble submitted that the Union of India should be directed to withdrawn the alleged title namely Bharat Ratna conferred upon Netaji and to cancell the order end/or declaration bestowing Him a title posthumously for restoration of His honour. It is further submitted that His

-:: (29) ::-

conbribution of his mother land must not be turnished with an unconstitutional disposal.

30. That the statements made in paragraphs No. 11 to 8,16, 20. to 23 are derived from different reports, books, magazines, me newspapers parliament proceedings; those made in paragraphs No. 1 to 4, 17, 18, 19, 24, 25, 26, 28 are true to my knowledge and the rest are my himble submission before this Hon'ble Court.

Prepared in my office.

The depondent is known to me.

Advocate

Clerk to Mr.

Advocate.

Schemnly affirmed before me this the End day of July 1993.

commissione: .

Annexure B

2

Copy of a letters from Khurshed Naoroji to Louis Fischer 22/7/46

Dear Fischer -

I enclose a copy of Gandhiji's letter, as desired by you. But please don't think that he is not with us. I have been with him since my release from prison and he put the constructive Programme before the country which was overlooked by the working Committee when they decided on constitutional methods.

Since the release of his colleagues of the Working Committee he has gone with them because they were not prepared to go with him but Gandhiji is essentially a man of action and when the time comes, he will take the country with him.

The Socialists are merely implimenting the constructive programme in the light of present circumstances, We must go to the people and forge mass sanctions. The people want to know the shape of things to come. Grouping of the provinces or the question of sovereignty does not touch them, they want a plan. Let our leaders go to the Govt. sponsored Constituent Assembly and we remain with the people to share their joys and sorrows. When the time comes we shall be one.

The Socialists do not want violence any more than does Gandhiji but what is practiced non-violence, we say nonkilling. We have to put non-violence in to practice and not just go talking of truth of non-violence. People want deals and not words. For twenty years we have talked on the ideal Govt. and the practical stage for us today is Panchayat Raj. Our people are very patient but even their patience is wearing thin. All Congress and the nationist minded people are one but our headache is the Indo-Anglo-Russians. The foreign Govt. has built them up to fight the Congress and will have to deal with them now. They are going underground and if before the time the Allies (excluding Russia), have a scrap with Soviet Russia, India is not satisfied

with the results of the Constituent Assembly. She will go over entirely and absolutely to the enemies of the Allies. The Indian army (not the Indian National Army) is no longer of the same temper as it was in the first world war. Besides the disaffection amongst the Indian officers and the rank and file, a revolutionary group has been working amongst them and they are pro-Russian. There have been many cases a court martial in the Indian army on individuals and platoons during the last war both in India and abroad. There have been mass desertions in the regular army and minor reaps in the N.W.F. Province at the beginning of the last war.

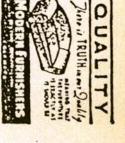
At heart the Indian army is sympathetic with the Indian National Army. If Bose comes with the help of Russia neither Gandhiji nor the Congress will be able to reason with the country. Also Russia for propaganda purposes declares itself an Asiatic country then there is no hope of any European alliance acceptable to India. Freedom for India under the aegis of Soviet Russia is no freedom for us: but it now rests with England to play fair by the people of India or be declared by us for ever as the enemy of India and of the Asiatics. There are other groups in north India pro-Russian, but after Russia joined the Allies they lost caster. However the bitterness towards the English is so great that Russia will again come into favour on the event of any disagreement amongst the Allies.

Gandhiji is not touched with the international reactions but we can't afford to neglect the signs of the time specially when it concerns our freedom.

Yours, Khurshed

WILLIAMS BOST





Vol. CXIII. No. 23112

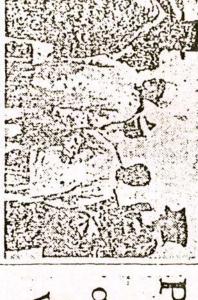
REG. No. C193

CALCUTTA, FRIDAY, AUGUST 15, 1947.

PUBLISHED SIMULTANEOUSLY FROM CALCUTTA AND DELHI.

TWO ANNAS.

TWO DOMINIONS ARE BOR Political Freedom For One-Fifth Of Human Race



Close Friendship

Nehru's Reply to with Britain Mr. Attlee

POWER ASSUMED BY INDIANS

Constituent Assembly Members WORK FOR COMMON Take The Oath

NEW DELHI, Aug 15.-Two new Dominions, India and Pakistan, were born at zero hour techny, ushering in political freedom to 400 milition

NO DISTURBANCE IN CALCUTTA

C. R. Sworn In This First Governor of W. Bengal Morning.

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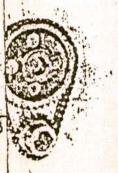
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ne : 34-7635

AMRITA BAZAR
PATRIKA

15 AUGUST, 1965

Pago 10, C. 3-4





Anchor. any and available.

I DE BISWAS on ate Ltd., at the Lane Calcutta-3.

'Indianot Sovereign Republic'-Uk court

BY A STAFF REPORTER

India is not a Sovereign Republic but "a part of Her Maleuty's Dominions outside the United King-I dom".

Court of Mugistracy in London 1920, "extends" to this country. in connexion with a case under Matrimonial Proceeding Act 1950_ India has been held as a "Domi-

This is not a more passing remark of the Megistrate as such but it represents the opinion of the British Government, in as much as these words describing India as "a part of Her Majesty's Dominions outside the United Kingdom" have been printed on the form issued after 1960 prescribed by the British Govern-

Mr. Kashikania Moitra, M.L.A. (S.S.P.) who handed over a copy of the London Mugistrate's order to 'Patrika' on the eve of India's 19th Independence Day celebration, asked, "what roully then is Constitutional Status of India today, a Sovereign Republic or a part of Her Majesty's Dominions."

LEGAL POSITION

Explaining the legal position Mr. Moitra said the Indian Independence Act 1047, provided for setting up in India of two independent "Dominions", on and from August 15, 1947, India came to be known as a "Dominion."

The question arose as to real constitutional status of India within the "Commonwealth" set up. Continuing Mr. Moltra said that on January 26, Indian Consutution came into force and India was proclaimed to be Sovereign Republic.

"In constitutional law and in political legal theory there is a good deal of distinction between a Dominion; and a Sovereign Republic", held Mr. Moltra.

The London Magistrate not only holds Indla as a British Dominion but, also says that the "last- ... nentioned Statute" which la "the Mantiemance Orders

In a recent order passed by a (Facilities for Enforcement) Act,

London citizen against her husband, an Indian citizen, now a resident of Calcutta.

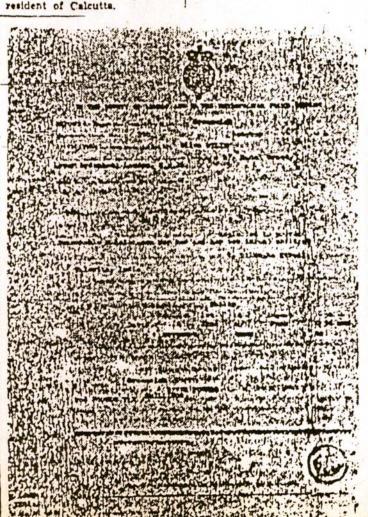
The Judgement was delivered

urcammiumi cover-girl complexion

Pond's Dreamflower 1. smoothes on so evenly ... tiny biemishes ... and just d Several exciting shades to to flatter your complexion

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HE LAST DAYS OF HE BRITISHI

LEONS OF SOME

3

AUTHOR'S PREFACE

distinguished Indian scholar, R. P. Musuni, writes: In his recently published book, The British in India, the

What endeavours were made to evolve a friendly policy between the Dominions of India and Pakistan? Why did they prove abortive? Why were adequate precautions not taken to avoid the bolocaust? The reasons remain to be told dispassionately.' send out Lord Mountbatten to expedite the withdrawal? Prime Minister of Britain to change horses midstream and of the most conscientious and liberal-minded viceroys of 'The histories of [the] last phase of British rule in India which have been published leave several questions un-What were the circumstances which impelled Attlee as answered. What elforts were made by Lord Wavell, one India, to bring together the two warring political parties?

This book is an attempt to give the reasons, without

dealing with the transfer of power in India will not be officially released until 1999, but in the interim period between that date and the present moment. I hope this to fill the gaps in a moving and fantastic story which has passion and without partiality.

It is the fruit of three years' research in India, Pakistan and Britain, during which a wealth of material which has book will shed some light upon events which have hitherto until now, been full of gaping holes. Official documents ability, to make use of it with no other idea in mind than my disposal. I have endeavoured, to the best of my been obscured.

be able to talk to most of those who played a prominent ments and letters. I have also been fortunate enough to part in the relinquishing of Beither In addition to the privilege of studying original docu-

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রাজ্যপালর ব্যক্তিগত, 'পতাকা িটি ই আর্র ওড়াবেন্ ুন্যু ১৮ ন্যার্ক্তি ২৯ ছলোই—রাষ্ট্রপতি রাজাপালা এবং লেকটনানট গভরন্তবের সরকালী বাস্ভবন ও গাড়িগালিতে এতালন বি বাভিগ্ত পতাকা দেখা যেত ১৯৭৯ লালের ১৫ আগস্ট থেকে তার প্রায়রতে দেখা যাবে জাতীয় পতাকা आम दा ला न सा व शिधिवार प्रमानात्त्व धिकि शिल्तव एएत्व क क्यां स्त्रात्त्व अध्कारी स्वतायेग्य श्री धकोटक मेरनीता - भि पि याद

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্ব এম সরকার এমন ছবিংগতি ালফিতের বাধনে আটক শতসহস্র -निर्मण सादेनदिम इस्म बहुत्तत इव भए थाक महाकवन ववर করণে। একেত্রে ভার ব্যতিক্রম কন ৷ উত্তর একটাই— প্রতিহিসো, श्रिशितात क्षामा व्यापानन्। ক্ষে একজন অধাক্ষকে হেয় করে, মান ধুলোয় গুটিয়ে সীমিত ক্ষমতার । মত্রী মহোদয় গর্ব অনুভব করতে । কিন্তু তাতে তার সন্মান বাড়ে না। কাশকে স্পর্ণ করে না, ফিরে আসে मृत्दे ।

লিয়া ভ্রম করার ফলে এই অবস্থায় বিপুর গোলাম হইয়া পড়ে। কাম, হিংসা, দম্ভ এবং সর্বোপরি হীন তা প্রভৃতি বন্য প্রবৃত্তির তাড়নায় त्मरे मानूरवह मत्या ताथा याग्र <mark>ষরপের এক বিকট বিকৃতি। তাহার</mark> মন দিব্য আত্মাকে যেন মেঘের মত পাকে। সে যাহাকে 'আমি' বলিয়া বে তাহা তাহার যথার্থ স্বরূপের ून, त्ररकीर्ग, क्रचना, विकृष्ठ

ব্র এই প্রাতিভাসিক কাচা আমি বাসনার জালে বদ্ধ করিয়া ান্তরের মধ্য দিয়া অবহিত করে. प्याधादिक श्राधनाह कल प्यरगा গ এই 'কাচা আমি' লোপ পায়. न्य रेक्षिय ७ विषय्यत्र भूठे। इरेए ত হুইয়া হৃদমুখ চিরশান্তির রাজ্যে

মাত্র।

তের পরে আঘাত' হানিয়া দুর্গ এই 'কাচা আমি' কে নিশ্চিহ প্রয়াই আধ্যায়িক সাধনার কাজ। নিতা-নতন কামনার দাবিগুলি প্রত্যাখ্যান করাই এই त्मी पापाट। छारे व्यथाप অবিচ্ছেদ্য অঙ্গ বাসনা-ত্যাগ। আধ্যায়িক শীবনের প্রতিষ্ঠান। পথেই অমৃতত্ব লাভ হয়, তো প্রকট হন। আর দ্বিতীয় পদ্ম দনার সার্বিক ত্যাগাই কাম্য, কারণ নানুকলোই মানুষ ঈশবের সঙ্গে একারতা উপপত্তি করিতে পারে। স অনুষ্ঠি এক দিলে হয় না, বা কাছে এক সময়েও আসে না। । माड करांद्र करा व्यवसार हारे আতান্তিক নিবৃত্তি। অন্তঃ প্রকৃতি প্রকৃতিকে নিংশেষে জয় করিতে पिवा व्याद्मात भद्रिभूग विकास এইরাপ खर्यत প্রকৃতি রাজযোগ, জানখোগ, ডক্তিযোগ, এই চারটির যেকোন এক বা (पाग प्यरमश्रम धक्तिष्टे বাহুবিক ধর্মের সবটাই ইহার मित्र, श्रिटिया, क्रियाकमान, णा, भावमाधिक एच श्राङ्खित मधा पुस्तर्भव कर भित्वर व्यवाठीं व रक्ट।

र्रमानत्मत त्रामा (धरक

কোনও বকম মন্তবা ছাডাই।

मा। छपु, भवभव किंदू यहेनाव विवदम मिरव याव। छाम्पत बादमा इरवाह, बांका अवकारक विकर् স্থবকে ধন্যবাদ। কুৎসার ভবাবে আমাকে এই কুংসার অভিযানকে তুসে ভোলার এটাই। শেব পর্যন্ত কোনও কুংসা করতে হানি।

জনমত

সম্রাট ঢেনাতে মুকুটের দরকার হয় না

'নেতাজির খেতাব লাভ' শীর্যক সম্পাদকীয় निवक्ति (२८-५-৯২) यन धक्ता हावूक। धरे नमर्गिष्ठि विभिष्ठे ७ निष्ठीक नन्नामकीग्रिष्ठि উপহার দেবার জনা সম্পাদকীয় দপ্তরকে আমার অকুপণ ও অকুষ্ঠ ধন্যবাদ। ভারত বীরপ্রসু। যে সমত সর্বত্যাগী স্বদেশগতপ্রাণ সুসন্তানের জন্ম দিয়ে ভারতমাতা রত্নগর্ভ হয়েছেন, নেতানি তাদের মধ্যে অন্যতম অত্যচ্ছ অপরিমেয় এক বাজিত্ব-বরং বিরল ব্যক্তিত্ব বললেও বাডাবাডি হবে না। সে হিসেবে নেতাঞ্চি তথুমাত্র ভারতরত্বই নয়, তিনি ভারতসূর্যও। তাকে নতুন করে ভারতরত্ব সম্মাননায় বিভূষিতকরণ অসম্মাননা ও অবমাননারই সামিল। সম্রাট नथाँ दे— छात्र मूक्टित श्रास्त्र द्य ना। দরকার হয় না খেতাবের। স্বামীনী, গাণীঞি, मिनदङ्, त्रवीक्षनाथ अपूर विनिष्ठ विश्ववद्यना বাজির মতই নেতাজিও স্মহিমায় মহিমাছিত ও ভাপর: উদ্ধল ও উদ্ধাসিত। এ সব ব্যক্তিত্বকে বাড়তি কেতাদুরত পোশাকী তথা প্রতীকী খেতাবের ডোরে বন্ধ করে খাট না করাই वाद्यनीय। -धामव কারণ जनमानत्त्र-जनमत्नामित्र। धानमध्याम बाग्र

(मनमात्र शती, मध्यमधाम

বাহবা দিতে হয় বর্তমান সরকারকে। এইজনা যে, তারা দেশের ৮০ কোটি জনসাধারণকে বিভান্ত করার জন্য বিধের মহান নেতা নেতাজিকে 'মরণোত্তর ভারতরত্ন' আখ্যায় ভূবিত করার কথা ঘোষণা করে চুড়াস্থ ঔজতা প্রকাশ कराइ भारम करदाइ। य खंबरदलाल महरू নেতাটা বিরোধ হয়েও স্বয়ং নেতালিকে মরণোত্তর কোনও উপাথিতে ভৃষিত করার সাহস দেখাতে পারেননি, শাহনওয়ার ও খোসলা কমিশন করে নেতাজিকে মৃত প্রচার করতে গিয়েও বলতে বাধ্য হয়েছিলেন যে, 'আমার কাহে নেতাজির মৃত্যু সম্পর্কিত প্রত্যক্ষ প্রমাণ কিছু নেই', সেখানে এই সরকার নেতাজিকে মৃত श्चिलिय कतात छएम्एन। धरे छैनावि मित्व দেশের ৮০ কোটি মানুযকে বোকা বানানোর व्यनक्षित करत्रह।

ভাবতেও অবাক লাগে, নেতাঞ্জিকে কুইসলিং বলেহে, জুতোর মালা পরিয়েহে, কুশপুর্তালনা দাহ করেছে তারাই আরু বর্ণচোরা নেতাঞি প্রেমিক সেজে নেও,নিধকে 'মরণোত্তর ভারতরত্নে' ভূষিত করার আনন্দে আমত্ত্রি সভে করছে। এই সব বর্ণাচার। নেতালি প্রেমিকরা ভানে না যে ৩৫ চারতবাসী নয়, বিশ্বের নিৰ্যাতিত, নিপীড়িত, বঞ্চিত মানবজাতি নেতাজিকে তাদের মহান নেতা ও বিবেদ রাং वाल वह भूदिर श्रीकार करत निरम्राहन। प्राक বর্ণচোরা নেতাজি প্রেমিকরা যতই নেতাজির প্রতি ভক্তি দেখাক না কেন সত্যিকারের নেতাজি প্রেমিক ভাবতবাসী এই ভতামি, ভাওতারাঙ্গি ও নেতান্তি বিরোধিতার খেলা অতি সহকেই অনুমান করতে পারেন। এবং একথাও ধুব সতা যে, একদিন দেশবাসীর কাছে নেতাজি বিরোধিতার কৈথিৎ এইসব নেতাদের অবশাই দিতে হবে। সেদিন হয়তো আর বেশি দুরে নয়। एक्न क्याब हो पृति

भाराष्ट्रणी, कारमाभाराष

এতদিনে ভারত সরকারের চৈতন্যোদয় হলো রত্বপ্রসাদনী ভারতমাতার গর্ভচাত সূভাবচন্দ্র'বসু



নামক বাঙালি সন্থানকে ভারতকঃ উপাধিতে ভূমিত করা যায়। আমাদের বাঙালি আতির আবংমান কাল ইতিহাসের স্বগ্নপুরুষ নেতাভিকে ভারতরত্ব পেতে লাইন দিয়ে দাঁড়িয়ে থাকতে হয় ছানিশ জনার পিছনে। ভারত সরকাতের রোগকলের কি মহিমামতিত নতুনা। কেউ কি কোনওদিন ভনেছেন ক্লাসের ফাস্টবর শেবির বেঞ্চের কোন থেকেও সাড়া দিয়ে ৩ঠে 'উপহিত'। দেশ স্বাধীন হবার পর ৪৫ বছর হতে োলো এবার আমাদের নেতাজির ডাক পড়েছে তিনি ভারতরত্ব উপাধিতে ভূষিত হবাব যোগা। ৪৫ বছরের অগ্নিগরীকা। যে দেশের লোক दिस त्रल त्रता भए दिस पाकट भारता। যে দেশের লোকদের গোলাডরা ধান, কেত ভরা ফসল, পুরুর ভরা মাহ আর অসভরা বর ছিল। কিন্ত ছিল মা ব্রিটিশ সরকারের হাত থেকে বছন মৃতির অর্থিকার। যে দেশের জন্য একদা নেতাজিকে মাতৃভূমি ত্যাগ করতে হমেছিল, সৃষ্টি क्ट्रांट इराइन धाकाक दिन वारिनीय भएन শোহারের স্বর্মে বিভার অকুভোভয় সেনাবাহিনীকে ভামের তথথাক্ষিত 'ভারতরম্ব' পাওয়ার সময় হয় না অথচু স্বাধীনোত্তর সময়ে ए प्रन त्नापद चामल मुहना, मुस्ना দেশের অবস্থা আরও শ্রীহীন, ঘরেঘরে অভুক্ত ক্ষালসার মানুহেরা যখন প্রাণহীন কাক ভাড়য়াব नामाछत, मुक्षाचीरिक कप्रदास, कनगाधादागढ भवाय यथन (भडेशिया छाताई त्याचा इत्य वर्ष ভারতরত্ব পাওয়ার। মূল্যবিচারের কী অপূর্ব भवाकाता ।

প্রবীর হালদার লগাপুর, গোবরভাঙ্গা एउद २८ भवताना।

২৩ আনুহারি বর্তমানটি হাতে আসা মাত্র নেতাজির ছবিটা দেখে বুকটা আনম্বে ভরে গেল। কিন্ত এই আনন্দের পালে দুঃখ ছিল বৃথতে পারিনি। নেতাজিকে ভারতরত্ব। তার ভারদিনে এতবড় অপমান আর হয় না। আবার বিনা মরনোতর ভারতরত্ব। ধিক বর্তমান শাসকদলের, রাইপতির সিকান্তের। এমন সরকারি সিদ্ধান্ত ভারতবর্বের নেতান্তি প্রেমী মানুব মানছে না মানবে না। ওই সরকারি সিছাত্ত क्लिए माउ मुझ्स माउ। रात मुद्रा मन्मार्व এইনোও সম্বেহ আছে। বই পড়ে হতটুকু क्तिहि, व्यवट छाईदशकू विमान दश्रद छा। मुड़ा इपनि। अमल मिनवामीद इनस दाद बाजाद नथ क्याताव देवि इत्य व्यादः। क्यम समह হেলেখেলার মতো ঘোষণা, নেতালিকে মরণোত্তর ভারতবঃ।

গাহাঁতী বলেছেন আমি বিশাস করি সূতাব বৈচে আছে। সময় হলে সে আসবে।' আরোও वालाइन, 'मिटाङिक नाम छष् कन्नना कदा धार বাস্তব্বে ভাবা যাত্ত না।' ওকার রোবস লিখাছেন, 'বুছের পাশে বসবার মতো একটি মাত্র লোক थाभि (मर्ट्याह, जिति इत्यंत त्नज्ञांक द्रपूर

সেই মহাজীবনকে রব্নভূবিত করার কথা আমাদের জনবরনী (!) গণতম্বিগ্রহ (!) সরকার बारम्रावद रकन मान भाज्ञ ! (मदानिय भूतकाहैक,

मा २८ भवगना

তব্যাত্র কাগতে লেখা মানপত্র দিয়েই निर्णाखिक महान कानाता यह ना। निर्णाखिक প্রত্যেক ভারতবাসী সর্বদা উচ্চাঙ্গনে বসিচে রাখবে খতদিন এই ভারত থাকবে। অনুগম, কলকাতা

बादवरह टानाइ-भव्द ना

রুবে ভারত

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(Vide Para 57) -: 52 :-No.F.37(1)/63-Jull.
Government of India
Ministry of Law
(Department of Logal Affairs) Hew Delhi, the 23rd June, 1266. OFFICE MEMORALINIM Subject:- Precedure to be followed when a Government servant is summoned by a Court to produce official documents for the purpose of giving evidence. In supersession of this Ministry's Office Memorandum No.F.37(1)/62-1, dated the 6th November, 1962, a copy of the revised instructions on the subject mentioned a ove, is lorwarded herewith for the information and guidance of the Ministry of Finance etc. with a request to circulate the same to their attached and Subordinate offices. Sd/- G.H. Rajadhyaksha Additional Secretary to the Sovt. of India To All Ministries/Departments of the Government of India. INSTRUCTIONS RECARDING PRODUCTION STOFFICAL LOCUMENTS IN A COURT A Government servant summoned by a Court to produce an official document is bound to produce it personally or to cause it to be produced by one of his subordinates, unless of i) the document is not in his custody; or ii) in Arcoment is of a privileged class. 2. All difficial records are normally to be regarded as in the custody of the head of the department or the Head of the office, as the case may be. In special circumstances, however, an official document may be in the custody of a Greenest sorvert other than the head of the department or, as the case may be, the head of the office. If the document required to be produced in the court

is not in the custody of the Government servant the has been summoned, he should inform the Court or in the case of a High Court or the Supreme Court, the Angister of the Govern taccordingly by an official letter as in Form No. I amb also send a copy of that letter to both parties to the masor line in which the production to a continuous senders. which the production has seen required.

Where the summons has been served on the bot of the

EVIDENCE ACT

Sec. 123: No one shall be remitted to give any evidence derived from unsublinhed official records relating to any offairs of State, except with the permission of the officer at the head of the Department concerned, who shall give or withhold such permission as he thinks fit.

Sec. 124: No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the sublic intersts would suffer by the disclosure.

lessoft of at en a wegiment servant who has the custody of the document in any special circums tances it should be determined, first, who the r the romant in 1 ---gicilegal class unter

section 123 or 124 of the Evidence Act in the mergin. would be privileged if -

- It is an unpublished official record relating to an affairs of State; or
- it contains any communication made to a public officer in official confidence;

provided that in either case the discharge of the locument would cause injury to the public interst.

If the Sovernment servant summaned is not too had of the department and is either of the opinion that the document belongs to a privileged class, or has any doubt in the matter, he should refer the quistion to the head of the department, unless the document falls under (ii) in para 4 and is addressed to the Government servant himself. In the latter case, the Government servant has himself to take a decision whether the public interest would suffer by the disclosure of the document If he decides that injury to the public interest would be caused by the disclosure of the document, he should claim privious or by the disclosure of the document, he should claim privious or by the disclosure of the document, he should claim privious or by the disclosure of the document, he should claim privious or the disclosure of the document.

stated. If the Government servant has any 'oubt, he may seek the advice of the head of the Department.

If the Head of the Department or office or the Government

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·: 54 :servant having the custody of the document(s) required to be produced finds that within the time available according to the summons for production of the document(s) in court it is not possible to comply after considering the question as to whether the document is privileged under section 123 or 124 of the Evidence Act and whather such trivilege should be claimed, and Evidence Act and whether such privilege should be claimed, and the court should be requested to grant further time, it will not court; in any such case, the officer concerned should instruct the Government Pleader and authorise him by proof Vakalathane, if necessary, to appear in the court on the date fixed for production of the document(s) and apply either orally or in ritting, if required, for grant of adequate further time for compilance with the summons of making a claim of privilege. In the meanwhite, the Head of the Department or the Head of the Office or other Government Sorvant who has received the summons should proceed to consider the question of privilege or seek instructions regarding thereto. be appropriate to make the request by a letter addressed to the ing thereto. 6. Where the document required to be produced has emanated from some class authority, e.g., a State Government or a foreign Government, or is one respecting which there has been correspondence with a State Government or a foreign Government, the head of the department should be consulted before the production of the document, unless it is intended for publication though not yet published, or is of a purely routine or formal nature. The Head of the Department should, when consulted, consider the desirability obtaining the consent of the concerned Government or authority LI .cum to the production of the document. Section 123, Evidence Act. The expression 'head of the department' in section 123 Evidence Act, 1872 means both the Minister incharge of the Department, who is its political head, and the Secretary or in the case of Ministries or departments and their attached and subordinate offices, the administrative head would be the Secretary or, in his absence, the Additional Secretary or Joint Secretary who is in charge. In the case of a Union Territory, he would be the Administrator and not any of his Secretaria. 8. Where it is desired to claim privilege for an official document under section 123, the first question to be considered by the head of the department is whether the document is uppublished official record relating to any offairs of state. The question is ultimately for the decision of the Court. If the Court holds that the document does not belong to this class then, subject to any revision application that may be made, the document has to be produced the should be noted, however, that where a claim is made that a particular document relates to affairs of State, the court is not entitled, in view of the provisions of section 102 of the *other officer who is its administrative head. Ordinarily,

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Evidence Act, to inspect the document, of the hit must, notwithstanding the objection, be later to the court, the contains only nower to take other evidence to assist if in retermining the nature of the document and may assist if in retermining the officer who makes the claim of religions to appear for cross-examination,

pelating, for instance, to national defence, public peace and security, diplomatic relations are no doubt included in the class of documents relating to a fairs of State. Document which it is the practice to keep secret for ensuring the profunctioning of the public service are also included in that class and it is not essential that their contents should be such that their disclosure would be harmful to the public interest, such documents are privileged because the freedom and candour of expression of opinion in the determination and execution of public policy would be materially, effected by their disclosure. Among the documents between to this classer notes and minutes by efficient and kinishers on files, proceedings of Government, reports of public officer, opinion

expressed by public officers, records of official decisions reached in the course of determination of question of policy.

10. Besides the above-mentioned categories, documents relating to commercial or other activities of the State even may in proper cases be embraced within the category of document relating to affairs of State if the disclosure of their continuoud cause injury to the public interest.

11. If, upon consideration in the light of the preceding observations, the had of the department comes to the conclusion that the document is an unpublished official a record relating to affairs of State, he should consider next whether its disclosure would cause an injury to the public interest. It is not sufficient justification for claiming privilege, however, that the head of the department does not wish the document to be produced or that its production would adversely affect litigation to which Government is a party or produce any undesirable impact on the department of provider the department will be justified in withholding the document only its production would cause injury to public interest. His decision that such injury would be caused is not liable to be questioned by the Court.

12. Where, upon consideration by the head of the Department as explained baove, it is decided to claim privilege under section 123 of the Evidence Act and the summons is only for the production of the document, a subordinate officer should be deputed to attend the court; but if the 'cad of the

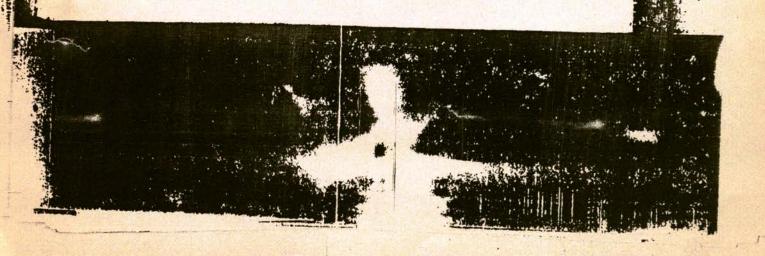
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department or other officer having costody of the document has also then summoned to give oral evidence, he should attend the Court should take an affiliavit in Form No. II (with suitable changes) which should be sworn by the administrative head of the department unless it is considered fit in view of the special circumstances or nature of the case or the Court directs that the affidavit be sworn by the Minister. The Government servant should also take along with himself in a smalled cover the document(s) which is are required to be produced.

must show on its fact that each document for which privilege is being claimed has been carefully read and considered and that the deconent is satisfied upon such consideration that in the case of each of the documents in respect of which the claim of privilege is made its disclosure would cause injury to the public interest. The affidavit must indicate, consistently with the necessity of sufeguarding the public interest, the reason(s) in brief why it is apprehended that the public interest yould be injured by the disclosure of the document. The reasons given must not be vague or indefinite and separate reasons should be given in respect of each of the documents in respect of which the rivilege is claimed.

14. When called upon to produce the documents, the Government servant attending the court should present the affidavit and explain that he is not at liberty to produce the document or give any evidence derived therefrom. The question whether any Counsel should be engaged in cases in which Government is not a party to urge the claim for crivilege would be considered in suitable cases in consultation with this Ministry. If the claim is ejected, he should make an application in form 15.111 If production is insisted upon, the document shouls be produced in a scaled cover and it should be submitted that the had of the degratment had instructed him to state that he would desire to consider enother the digh Court should be moved in rayision and that, if the Court sees no objection, the document had in scaled cover pending the decision of the High Court. It is scaled cover pending the decision of the High Court. It. Sovernment servant should then abide by such order as the Court may make.

SECTION 124, EVIDENCE ACT, 1872

15. The second class of privileged documents consists of documents containing communication made to a public officer in official confidence when the public officer to whom such communication has been made considers that the public interest would suffer by the disclosure.

16. Privilege under section 124, Evidence Act must be claimed by the cublic officer to whom the communication has been made in official confidence. Such officer is competent

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-56--: 57 :waive the objection and allow production. For deciding whether privilege should be claimed or vaived, the object should consider the effect of production on the outlies in cross. If he finds that the public interest could safe an efficient to be should make an efficient to be considered. he sho he should make an affidavit in Form (0.11 (ita changes). Therein he should set out the increase SUPINOTI changes). Therein he should set out the recording to the each of the documents. If he is summand to diversely and distant should attend personally and when called upon to produce the document or give any evidence relating to the communication contained therein, claim privilege by filing the affidavit. Summoned to produce the document and not to give oral evidences the rough the may depute a subordinate officer to attend the Court with the document (in a sealed cover) and the affidavit. The Court by the should be noted, is entitled to inspect such documents for the purpose of determining the claim of privilege. If the claim is rejected, and it is considered advisable to move the ligh Court, an application in the Form No. III should be made. If production is still insisted woon, the document should be question the produced in a sealed cover and it should be submitted that time may be given to the public office. It can iter the limit to Court should be noved in revision and that in the castier. he sho the court sees no objection the document may be to CASES cover. The Government ser and should then able by such unler They a as the Court may make in the matter. Affidavits have to be sworn before a nerson authorised, to administer oath, e.g., a Magistrate, Judge, Oath Commissione (or Motary Public). 18. The head of the department or the public efficer summer should in all cases postain from entering into correspondence or Tri with the presiding officer of the Count in regard to the claim of privilege. the no Oral evidence derived from privileged documents. Schior Court/ The privilege recognised by section 123, E. idea & Act matter 1872 extends not only to the production of the document but also to the giving of any other evidence as to their contents or as to the facts derived thereixem. No person, whether a Sovernmett servant or not, may give such evidence. then a public officer summoned as a witness to give oral cridence is asked in the course of his examination as a witness any question concerning a matter which has core to his knowledge from any unpublished official record relating to affairs of state, if no summons has been issued to the had of the department for production of the document and his prior permission to give evidence derived therefrom has not been obtained he should decline to answer the question until such permission is given. If the vitness be the head of the department himself he should object to the question on the ground that it relates

- 58 to the contents of a privileged document, If the question is pressed and allowed by the court, he should claim privilege after considering the document in the light of the preceding instructions. If an affidavit is required, he should request for time to file it. If the witness is not himself the head of the department and the question is allowed by the Court, he should may that the head of the department may first be summoned to produce the document and decline to answor the question until it is produced. 20. Where a witness is asked a question relating to facts derived from a document containing communications made to a public officer in official confidence, he should, if he is not the public officer to whom the communication vas made, decline to answer the question unless the document is first produced by the public officer concerned. If the witness is the public officer to whom the privileged communication was made, he should decline to answer the question on the grounds that it relates to the contents of a privileged document. If the the document and claim orivilege. If an affidavit is required, he should consider the document and claim orivilege. All the foregoing instructions apply as well as to the cases in which Government is a party to the case as other. They also apply to summons from other tribunals such as rbitrators, etc. Papers relating to the Appointments Committee of the Cabinet. 22. In particular, whenever any summons from a court or Tribunal is received for production of the papers relating to the Appointments Committee of the Cabinet, previlege should invariably be claimed. Such cases should also be brought to the notice of the Law Secretary. One of the Law officers or Senier Counsel should be engaged in such cases. If the Court/Irabural does not agree with the claim of previlege, the matter should be taken up in appeal to the Supreme Court.

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FORM 1 (See para 3 of instructions)

GOVERNMENT OF BID TA MINISTRY/DEPARTMENT OF _

From

To

The Caurt of

The Registrar, High Court of (at)

Sir,

A summons bearing No. dated
in Suit (or other proceedings) No. of 19
between ("AS) and @OD) has been served on me on
requiring production in the said Court on
of the documents therein specified.

2. With reference to the above, I have the bonour to intimate that the documents specified in the said summons (or the documents specified below out of those mentioned in the said summons) are not in my custody and, the refere, I am unable to cause their production in Court. The said documents are in the custody of ______ as the had of the ______ department, head of the oifice.

3. I am accordingly to request that this left to may be placed below the Houbble Judges for and to.

Yours faithfull,

SIGNATURE

- Insert names. If there are numerous parties,)ive first name and add 'and other(s)'.
- To be inserted only in cases in which the summons has been issued by a High Court or the Supreme Court.

(To be a Privile in respect temperature)

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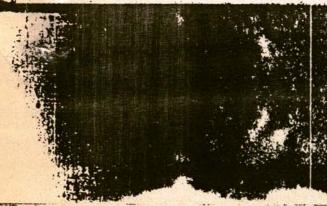
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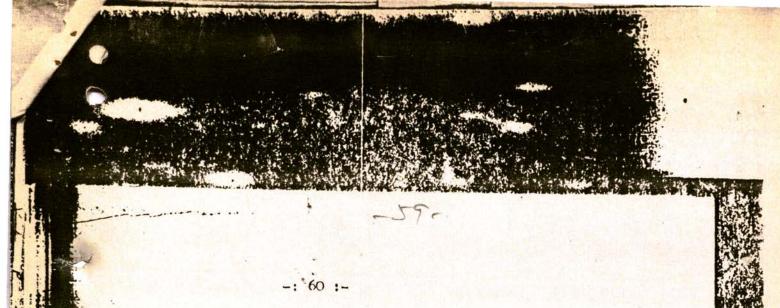
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FORM II

(To be used when the Head of the Department has to claim Privilege under Section 123 of the Indian Evid per Act in respect of some documents and under section 124 in respect of the others).

AFFIDAVIT

SUIT (D).

OF 19

I, Minister/Secretary/Add1.

Secretary/Joint Secretary to the Government of India, in the Ministry of do hereby solumnly affirm and state as follows:

1. A summons bearing NO. dated state as follows:

1. A summons bearing NO. dated state do the Court of Secretary of the suit No. The solution of 19 has been received in the Ministry of the solution of 19 has been received in the Ministry of the december of the decem

I have carefully read and considered each of the said documents and have come to the conclusion that documents (Scrial Nos.

are unpublished official records relating to the effairs of the State and that documents (Scrial Nos.

contain communications made in official confidence.

-: 61 :-

I subit that pages 1 to ____ being inter-departmental notings also contain minutes

documents belonging to a class the production and disclosure
of which are protected by sections 123 and 124 of the Evidence Act. The communications are unphlished official records relating to the affairs of the State the production and disclosure of which are protected unler sections and 124 of the Evidence Act. These are equally communications made in official confidence and as such privilege !.

6. I have carefully examined the question as to whether the disclosure of the document/documents would cause injury to public interest and am bons-fide satisfied that its/their disclosure would cause injury to public interest and that public interests would suffer thereby.

The disclosure of the notings and documents referred to would lead to injury to public interest.

The untimes contain inter-departmental minutes pertaining to

They are steps in aid of the exercise of the constitutional power under Article of the Constitution . The disclosure of the opinions expressed by would affect the freedom and candour of expression of point in the determination and execution of constitutional functions affecting public policy. The communications exchanged for this our use would all fall within the same category mentioned above. These are unpublished official records relating to affairs of State and communications made in official confidence and public interest vou suffer by their disclosure.

However, I hasten to point out that I have no objection whatsoever to anyone of these documents in regard to which privile has been claimed being produced for perusal by theis Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of the privilege.

9. I realize the solemnity and significance attached to the exercise of power under sections 123 and 124 of the Indian Evidence Act, 1872, and privilege is not being claimed on the ground of expendiency or to avoid an coloring the inconvienent situation or because it is apprehented that the document; if produced, would defeat the case of the state.

I do not, therefore, give permission to an one to produce the said documents of to dive any evidence derived therefrom and claim privilege under sections 123 and 124 of the Indian Evilence Act, 1872.

say that what is stated herein above is true to my knowledge.

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-61--: 62 :-Solemnly offirmed at this day of 19 Minister/Secretary/Addl. Secretary/ Joint Secretary In the Ministry of Sworn before me In case only some facts stated in the affidavit are true to the personal knowledge of the efficer making the affidavit and some are true according to the information derived from the official record, the verification clause should run as follows:-N.B. say that what has been stated in paragraph above, is true to my who knowledge and what is stated in paragraphs is true according to information in my possession as derived from the following:-

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S. No.	File No.	Subject, 3.
	24/1/71-Poli.II	Expenditure on refresshment at the sessions of the Commission of Inquiry (ie. Netaji Inquiry Commission)
2.	24/2/71-PoliII	Netaji Inquiry Commission- Claim of Shri Madan Lal Assistant for R.54.75 towards honorarium for translation work done b him in the Commission.
3.	24/4/71-Po1111	Netaji Inquiry Commission- Grant of G.P.F.Advance to Shri K.R. Ramaswamy, Asstt. Secretary.
4.	24/5/71-Pol 1 II	Netaji Inquiry Commission - Visit of the Commission to Indo-China. Inquiry
5.	24/6/71-Poll.II	Netaji/Commission - Visit of the Commission to Taiwan(Formosa).
6.	24/7/71-Poll-II	Netaji Inquiry Commission - Proposal to visit Thailand.
	24/8/71.Poll.II	Netaji Inquiry Commission - Peroposal for visit to Hong Kong.
	24/9/71-Poll.II	Netaji Inquiry Commission - Visit to Burma.
9.	24/10/71-Poll.II	Netaji Inquiry Commission - Expenditure incurred in respect of Reconcilation of figures.
10.	24/11/71-Poll.II	Netaji Inquiry Commission - Wisit to Singapore
	24/12/71-Poll.II 3. 24/28/71-Poll.II	Netaji Inquiry Commis ion - Budget provision for the Netaji Inquiry Commission for 1970-71(Grent No.56) Final & excess and savings in respect of.
12.	24/13/71-Poll.II	Deputation to Japan - Counsel for the Netaji Inquiry Commission.
13•	24/14/71-Pol1.II	Netaji Inquiry Commission - Visit to Japan - Civil Writ etition filed by Shri Suresh Chandra Bose in the High Court of Delhi - against the
14.	24/15/71-Poll,II	Netaji Inquiry Commission - Grant of advance of one months's pay to Shri D.K. Das, Secre ary, Netaji Inquiry Commis ion, who is sent on deputation to Japan.
15.	24/16/71-Poll.II	Netaji Inquiry Commission - Foreign Exchange and Passport facilities to Shri Ashok Ghosh, General Secretary All India Forward Block and his Advocate to visit Japan and participate in the proceedings of the Commission.
16.	24/17/71-Pall.II	Netaji Inquiry Commassion - Sanction of honorarium to Reporters/Stenographers etc. for taking verbatim the oral evidence at the sittings of.
17.	24/18/71-Poll.II	Netagi Inquiry Commission - Visit to Japan - Writ petition filed by Shri Ashok Ghosh, General Secretary, All India Forwar Bloc, in the High Court at Calcutta against the.

2 1.	2.	3.	
18.	24/19/71-Poll.II	Netaji Inquiry Commi Shri K.R. Ramaswami Court of Sub judge,	ssion - Attachment of pay of Asstt. Secy - Orders by the Lst Class Delhi.
19.	24/20/71-Poll.II	NIC- Supply of certification by him before to from Shri S.M. Goswan	ied copies of the deposition he Commissiob - Request
20 •	24/21/71-Poll.II	NIC - Upgrading the p Commission to the sca plus special pay of R	le of pay of N.18,00-2,000
21.	24/22/71-Poll.II	NIC-Proposal for visitions Kong, Singapore, Deputation of the -	t to Rangoon, Bangkok Saigon, Penang and Kuala Lumpur -
22.	NXC 24/22A/71-Poll.II	NIC - Visit to East-	Asian Countries.
23 •	24/23/71-Poll.II NIC	-Revised Budget Estima	tes for the year 1971-72.
24.	24/24/71-Pol1.II	NIC - Continuance of 30th June, 1971.	posts in Commission beyond
25.	24/25/71-Poll.II	NIC - Control of Experimentally expenditure s	nditu re - Submission of tatements.
26.	24/26/71-Poll.II	NIC - National Committinguiry - Press State	tee for assisting Netaji ment.
-21.	24/27/71-Poll,II		n Government to appear before pose regarding availability by them.
28.	24/28/71.Poll.II	NIC - Visit to East A Passports for the.	sian Countries - Renewal of
29•	24/29/71-Poll.II	NIC - Warrant of Proc Commission.	edure - Chairman of the
30.	24/30/71-Poll.II	Khambatta, Counsel fo	putation of Shri P.P. or the Commission to South- to accompany the Commission.
31.	24/31/71-Poll.II	NIC - References rece advocate regarding to South Easter Countrie	ived from Sh. Balraj Trikha, i visit of the Commission to
32•	24/32/71-Poll.II		Balraj Trikha for p o ssport l ny the Commissi o n on its ian countries.
33.	24/33/71-Poll.II	NIC - Reconciliation other Revenue Expend:	of Accounts - Grant No.56 - u
34.	24/34/7 1- Poll.II	NIC - Quarterly return T.A. etc. included in	rns relating to economy on 1 (Other Charges) for 1971-72
35.	24/35/71-Poli,II		estimates and proposals for for Grants for the year

contd.....

1 2.

3.

36. 24/36/71-Poll.II

NIC - Irregular repayments of loan by Sh. K.R.
Ramaswamy, Asstt. Secretary, Netaji Inquiry Commission, to the Syndicate Bank, New Delhi, availed of for the purchase of a scooter.

37. 24/37/71-Pol.II

NIC - Appointment of Shri D.K. Dass, Ecretary, N.I.C as Civil Liaison Officer with the Army in the Eastern Sector and his return to the Commission.

4. 20/5/714 01411

6. 447/714 115

7. 29/8/7

5. 24/1/71-7c11

2. 34/24/24/24

01 M/13/71-Police

11. 32/12/719 611.11

12. 24/13/71-Poli.17

13. 94/14/71-011.11

14. 31/10/71-2011.1

18. 74/10/71-roll.I

16. 80/17/71-PALLED

17. 29/13/71-Poll.11

or and the second

IN THE HICH COURT OF JUDICATURE FOR RAJASTHAN AT

CLDER

Mand Lal Sharma Ms. Chief Secretary, State of Rajasthan and another

under Article 226 and 51 of the Constitution of India.

DATE IF IRDER

::: JANUARY 18,1986

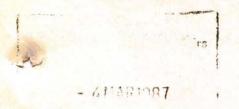
PRESENT

Shri Nand Lal Sharma, petitioner in person Shri N.L. Faree', Addl G.A.
Shri P.F. Cupta, standing Counsel for Union of India.

BY THE SCHITT:

this court to order for starting an open judicial enquiry on international level to know about the whereabouts of Metaji Subhash Chandra Bose, a national tere, and further to order to set him free, if he is still confined as a war criminal in any country. The patition was filed on 26.3.84. Along with the writ patition, an application was also filed that this case should be pet up before a full beach for admission. When the case came up before Hon'ble the Chief Justicem he was pleased to order that the case may be put up for admission before me. The patitioner also filed an application giving the describe of ofcoments which be wanted to be

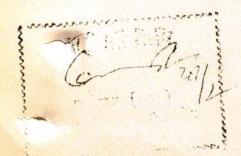
This is a Writ metition filed by Shri Nand



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in jent



summened from the non petitioner No.2, Secretary, Ministry of External Affairs, Union of India and he also filed some additional decuments on 27th August, 1984. Notices to show cause were issued as to why the writ potition should not be admitted and notices of the said two applications were also sent to the numberitioners. On 15th March, 1985, Shri n.P. Supto, Standing Counsel for the Union of India was called for and was directed to file r ply of the writ petition within one month. Time was again sought by Shri Gupta on 8.5.85 and the case was fixed for 8th July, 1985. Thereafter, I was neminated for Jedhpur and the case was not listed before any other bench inspite of applications for any hearing filed by the petitions. The case orms up before me on 18th Cotober, 1985, till then, no reply was filed by either the State of Rajsthan of the Union of India. ShriB.P. Gupta, learned that Standing counced for the U.O. 9. Submitted that he has received no instructions, though he had intimated the Scretary, Ministry of External Affairs. The case was ordered to be put up on 4.11.85 and the non petition is were permitted to file reply before that date. Again on 19.11.1985, ShriGupta submitted that he has ruceived no instructions till then, inspite of written communication. learned Deputy Government Advocate submitted that he has received instructions not to conduct 64 美国新疆 the writ petition on behalf of the State of Rejesthan. The petitioner wanted time to

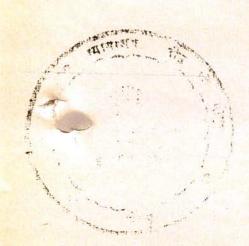


interrogatories. The petitioner filed some more documents and also produced two printed books

(1) NETAJI AZAD HIND FAUJ AND AFTER? BY R.M.KASLIVAL AMD(2) AN IMDIAN FREED M FIGHTER IN JAPAN, MEMOTAS

OF A.M. MAIR. The case was taken up finally for arguments on 4.12.85. Shri R.F. Cupta still submitted that he has received no instructions and the Additional Covernment Advocate also reiterated thathe had no instructions in the said matter. Lance, the petitionar was hear-d ex-parte in person and order was reserved.

The netitioner in this writ petition has submitted that he was a close collectue of Netaji Subhash Chandra Porse and played an important relation his exit from the prison and escaping rut of India. In his petition, the petitioner. has further submitted that two Commissions, namely Shah Mayor Man Commission and Justice Khosle Commission, appointed estiliertax by the Coverement of India to enquire into the disappearance of Nelsii Subbesh Chandra Rose, could not come to any definite conclusion for the various reasons mentioned in the writ petition and eccording to the petitioner The story that Metoji Subhash Chandra Bose dies in a plame crash in Farmosa was a fabricated one as the co-passenders who were supposed to have been travelling in that plane have lived for long periods of er the renerted accident and the supposed death and the stery that Metaji Subhash Chandra Bose Fir



cury for 'is a fety, deserting his people, could not be believed. The petitioner has also referred to the rumer that Petaji was confined in Neurembur Fort (West Cermony) as a war criminal and after his brain wash, he was to be released. In his application dated 6.0.84, he has given a long list of documents which he want d the non politicer No. 2 to produce so that some definite conclusion could be reached. In that semexdefinitexrem application, he further assured that he will be submitting list of Indian and formion witnesses who are willing to get their statements recorded and to cooperate if fresh enquiry was ordered. He also produced some extracts of the driry of Metaji Subhash Chandra Bos: . He has also produced a newspaper Rejasthan Patrike (English Edition), dated 18th August, 1985 containing an Arbicle concerning Nebaji Subhash Chandra Bose. He also produced an affidavit of Dr. R.M. Kasliwal to the effect that whatever he had written in his book 'Metaii' Azad Mind Fawz and after' is correct and true to the best of his personal knowledge and belief and specially in preface on pages between (iii) and (iv) and in Epilouque on pages 69 to 73. Another back produced by the petitioner namely; An Indian Freedom Fighter in Japan, Memoirs of A.M. Nair containing of Chapter No. 28, the Disappearance of Netaji Subhash Chandra Bose' from pages 272 to 284, in which the whole episode has discussed in debril and doubts have been expressed as to whether Metaji Subhash Chandra Rose died on account of theme crash, as alleged.

6.00

-5considered I have sundidered the whole mat'er. cannot be denied that Metaji Subhash Chandra Bose was a creat national hero and a great freedom fighter. We had 'ed strong revolutionary freedom revenent in in it and commands a ereat respect From the popula of India. It is true that the Fovernment of India was abso concerned in this namely shah Nausaj Khom Commis matter and appointed two commissions and Justice Thisle Commission to enquire into the whole matter recording the disappearance of Netaii Subhash Chandra Rose but the people were not satisfied with the manner in which these Commissions functioned and there is been demand from the public that some other Commission should be appointed to go in's the whole question afresh and it is in that direction only that the present writ petition has been filed. Notices were issued both to the State of Rajasthan and the Union of India, but it is very unfortunate that mone of them have cared to any raply of "'m writ petition and produce relevant motorial before this court to come to some definite conclusion. Either because the Union of India is indifferent to his question as the maiter had I ready he n anguired more than once or the Covernment of India itself is not satisfied with the respeck reports of the two Commissions and the efore, does not want to contest the writ petition while has been filed for ordering a fresh enquiry in o the discourance of Meloji Subhash Chandra Bose:

Gr-A/

-6-

restandants and no relevant documents have been produced in the court, it is not possible to come to a definite conclusion that the two earlier commissions did not hold be enquiry properly or there were some inherent improbabilities. I do not think it emper to order a fresh enquiry without examining the whole matter which cannot be done without the assistance of the Union of India.

In the fame facts and cirgumstances, I think it proper to issue a direction to the non-petitioner.

No. 2 to look into the matter dispassionately and hear the petitioner in person patiently and examine the documents and the pakikiknexxiaxparage evidence that he wants to produce in support of his contention, and then come to a definite

conclusion. In my opinion, six months time will be

sufficient for the Union of India to examine the unol matter of reah with open mind and if neces-sary, invite public in general to produce material whatever it want in this connection before coming to a prime facia decision as to whether fresh Commission is necessary or not. Petitioner should submit all bis papers, avidence and other material before Government of India and time of six months will start from the date the material is filed by the petitioner.

. The writ petition, is therefore, disposed of

sd/-

S.M. BHARGANA.

Salz

No. 1866

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Copy forwarded to the fo Home Secretary, New D

For information and necessary action.

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भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS नार्थ ब्लाक, नई दिल्ली-११०००१ NORTH BLOCK, NEW DELHI-110001

September 27, 1993.

M. VENKATESWARA IYER संयुक्त सचिव JOINT SECRETARY Phone: 3015785

D.O.No.5293/JS(A)/93

Dear Shri Vijay Kumar,

I enclose a copy of the judgement dated 4 March, 1987, delivered by Hon'ble Justice Mr. S.N. Bhargava of the High Court of Judicature, Rajasthan. As you will see, this judgement relates to the inquiry into the circumstances The first inquiry in this in which Netaji Subhash Chandra Bose died. matter was ordered by the Ministry of External Affairs who set up the Netaji Inquiry Committee under the chairmanship of Shah Nawaz Khan.

- The aforesaid judgement has been relied upon in a writ petition filed in the Calcutta High Court by one Shri Bijan Ghosh and certain others who have joined him as added respondents.
- According to the judgement of the High Court of Rajasthan, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including all the papers and other materials which the petitioner had claimed that he had at his disposal. The concluding part of the judgement may please be seen in this regard.
- As we have to give para-wise comments in respect of the writ petition pending in the High Court at Calcutta, we are interested in knowing immediately what action was taken by the Ministry of External Affairs in pursuance of the judgement of the High Court of Rajasthan.
- We shall be grateful if you will consider the matter and send us a reply immediately. If you are not dealing with this matter, kindly pass it on to the concerned Joint Secretary with the request to send me a reply Also, kindly let me know who is the officer concerned so that I urgently. can be in touch with him.

With regards,

Yours sincerely,

auralo

(M. Venkateswara Iyer)

Shri Vijay Kumar, Joint Secretary (Coord), Ministry of External Affairs, New Delhi.

Lapia



5 No 2 मांयुक्त सचिव गृह मंत्रालय

भारत सरकार नार्थं ब्लाक, नई दिल्ली-११०००१ JOINT SECRETARY MINISTRY OF HOME AFFAIRS GOVERNMENT OF INDIA NORTH, BLOCK NEW DELHI-110001

PHONE: 3015785

MOST IMMEDIATE/BY SPECIAL MESSENGER/ COURT CASE

D.O.No.1/27/91-Public

5 October, 1993.

Dear Shri Dilip Lahiri,

I enclose a copy of my D.O.letter No.5293/JS(A)/93 dated September 27, 1993, addressed to Shri Vijay Kumar, regarding the judgement dated 4th March, 1987, delivered by Hon'ble Shri Justice S.N. Bhargava of the High Court Judicature, Rajasthan, relating to the inquiry circumstances in which Netaji Subhas Chandra Bose died.

- Shri Vijay Kumar told me that he has passed letter to you as you are concerned with the subject.
- 3. May I request you kindly to expedite your reply ? are dealing with a writ petition in the Calcutta High Court which the aforesaid Judgement has been relied upon and we have to tell the Court what action has been taken in pursuance of the Judgement. Any delay will embarrass us and will result Contempt of Court proceedings.

With regards,

Yours sincerely,

Shri Dilip Lahiri, Joint Secretary (AP), Ministry of External Affairs, New Delhi-110001.

Wouldtof sace ace (M. VENKATESWARA IYER)

poorpatetmassace. 5.10.93

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11/10 Most Immediate 75

By Spl. Messenger विदेश मंत्रालय, नई दिल्ली-११

Dilip Lahiri Joint Secretary (AP)

5570 15(B) 197

MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI-110011

October 8, 1993

Dear Shri Tyen,

No. C/551/7/92-JP

Please refer to your letter no. 1/27/91-Public dt. 5.10.93 regarding the judgement dated 4th March, 1987 delivered by Hon'ble Shri Justice S.N. Bhargava of the High Court of Judicature, Rajasthan relating to the inquiry into the circumstances in which Netaji Subhash Chandra Bose died. The factual position is as follows:-

- 2. Subsequent to the judgement having been passed, it was brought to the notice of this Ministry that the petitioner had died. Coordination Division of this Ministry had, therefore, informed Shri Talekar, Counsel of the late petitioner that as the petitioner had passed away before the meeting with the MEA/Government of India representative could take place, no further action was called for on the part of the Government of India. Our Legal and Treaties Division had also opined interalia that since no evidence or documents of any kind were ever produced by Shri Nand Lal Sharma, the occasion to consider whether or not a fresh enquiry was required did not arise.
- 3. You are no doubt aware that the CCPA at its meeting on 27.2.91 had considered a note prepared by your Ministry on the dispute regarding the ashes of Netaji Subhash Chandra Bose as also the controvery whether Netaji was dead or alive where the CCPA had approved the proposal that "no useful purpose would be served by holding yet another enquiry or bringing the ashes back to India at present as this might create unnecessary tensions."

Shri M. Venkateswara lyer, Joint Secretary, Ministry of Home Affairs, New Delhi (Drip Latiri)

(Drip Latiri)

(Drip Latiri)

(Drip Latiri)

S. No. 4

TY BY SPEED POST

1986

V.P. BHATIA, UNDER SECRETARY(PUB. & VIG.), TEL.NO.3012421.

D.O. No.1/27/91-Public

DATED:

22-10-1993.

Dear Shri Kundu,

Kindly refer to letter No.15/B/Home/93/625/245A dated the 6th August, 1993, from Shri S.N. Roy, Junior Central Government Govt. Advocate, addressed to Shri L.B. Sinate, Director in the Ministry of Home Affairs, forwarding therewith a copy of the Affidavit of added Respondent namely Dr. Sushanta Kumar Mitra in the matter of C.O.No.6720(W) of 1993, Bijan Ghosh Versus Union of India & Ors. for preparation of Affidavitin-Opposition.

- 2. The parawise comments in response to the said writ petition by Dr. Sushanta Kumar Mitra have been finalised and the same are sent herewith for your immediate attention and preparation of the required Affidavit-in-Opposition. I shall be grateful if you could kindly have the Affidavit-in-Opposition prepared expeditiously, settled by the Senior Panel Counsel, Shri R.N. Das and return the same to this Ministry for doing the follow up action before formally filing the same in the Hon'ble High Court at Calcutta.
- 3. In view of the above position, the matter may kindly be attended to on priority basis and necessary Affidavit-in-Opposition in the prescribed proforma returned to me duly settled by Speed Post.

With regards.

Yours sincerely,

(V.P. Bhatia)

Shri S.K. Kundu, Senior Central Govt. Advocate, Ministry of Law & Justice, Department of Legal Affairs, 4, K.S. Roy Road, Calcutta-700001.

TET SUED THE STATE OF THE SECTION W.H.A.

PARAWISE COMMENTS IN RESPECT OF AFFIDAVIT ON BEHALF OF ADDED RESPONDENT NO.5 NAMELY, DR. SUSHANTA KUMAR MITRA IN RESPECT OF WRIT PETITION C.O. NO.6720 (W) OF 1992 FILED BY SHRI BIJAN GHOSH IN CALCUTTA HIGH COURT.

Para 1: Needs no comments.

added The contention of the/Respondent in para 2 of the Affidavit Para 1: is not correct and is denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of 'Orders and deocrations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundantly clear that the use of Civilian awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the scheme of the Government as these awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abolished titles. of the said/Note is annexed herewith. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

- Para 3: Requires no comments.
- Para 4: In view of the position stated in para 2 above, needs no further comments.
- Para 5: As already stated in reply to para 2 above, Civilian Awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri are not titles and this position has been clarified in the Press Note dated April 17, 1968, referred to in para 2 above.

- 2 -

- Para 6: The allegations of the/Respondent are denied. Civilian awards & 7

 conferred by the Government of India are not titles.
- Para 8: The contention of the Petitioner about conferment of Bharat Ratna posthumously on Shri Rajiv Gandhi, is denied. It is also denied that Lal Bahadur shastri has not yet been conferred the award of Bharat Ratna. The award of Bharat Ratna was conferred on him in 1966.
- Para 9: The contentions of the Respondent in para 9 are incorrect and are denied.
- Paralo: The contention of the Respondent in para 10 is incorrect and denied since the Government has already accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an air-crash at Taihoku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as "posthumous".
- Parall: As regards an investigative inquiry stated to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

In view of the various documents submitted in the evidence and considered by the Netaji Inquiry Committee! Khosla Commission and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an air-crash on 18th August, 1945, no useful purpose would be served by instituting any fresh inquiry.

- added
 Para 12: The contentions of the /Respondent in para 12 are denied.
 These are his personal views.
- Paral2A: Needs no comments as this is a reproduction relating to the terms of reference of Netaji Inquiry Committee and the recommendation of the Committee.
- Paral2B: No comments as the contention of the / Respondent only reflects his personal views about Shri G.D. Khosla.

Para 13: The contentions of the Respondent in para 13 are self-explanatory and need no comments as far as publishing a book namely "Last Days of Netaji" and its subsequent withdrawal from circulation is concerned.

As regards the statement made by the then Prime Minister in the Lok Sabha on 28.8.78 (not on September 3, 1978 as contended in the petition) it is not fully quoted by the petitioner. Shri Morarji Desai also added that "no useful purpose would be served by having any further This last sentence in the statement has been inquiry". added omitted by the /Respondent. As regards the statement attributed to Shri Dhaniklal Mandal on 11th April, 1979, it relates to a reply given by him when he was Minister of State in the Ministry of Home Affairs to Unstarred Question No. Sabha on 11th April, 1979. 6626 in the Lok It was not a suo motu statement made in the Lok Sabha, by Shri Dhaniklal Mandal, as has been made out by the added Respondent. However, the matter was considered by the Government as late as in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji and Government had already accepted that Netaji died in an air-crash on 18th August, 1945, at Taihoku, no useful purpose would be served by holding It is, therefore, denied that the findings another inquiry. and reports of Netaji Inquiry Committee and Khosla Commission have not been accepted by Government. However, as already stated, Government of India has taken a decision not to proceed any further in the matter of conferment of Bharat Ratna on Netaji Subhash Chandra Bose. In view of this position, the ad ded apprehension of the/Respondent about Government of India bestowing the award of Bharat Ratna on Netaji is unfounded.

Para 14: No comments, since the findings of the Netaji Inquiry Committee and the Khosla Commission have already been accepted by

- 4 -

the Government of India. As already stated, no record is available in the Ministry of Home Affairs with reference to the investigative inquiry alleged to have been declared by the Government of India headed by Shri Chandrasekhar. The contention of the/Respondent that the Government of India never accepted the reports and findings of the two Inquiry Commissions is not correct.

- Paral4A: The contentions of the/Respondent are not relevant since the Government of India have already accepted the findings of the two Commissions that Netaji died in an air-crash at Taihoku on 18th August, 1945.
- Paral4B: The contentions of the added Respondent are immaterial in view of the fact that Government have already accepted that Netaji died in an air-crash at Taihoku on 18th August, 1945.
- Paras 14 No comments in view of the acceptance by the Government of the findings of the Netaji Inquiry Committee and the Khosla Commission.

 The reference to the alleged bad treatement meted out to INA personnel in post British India has no relevance to the issue relating to conferment of Bharat Ratna on Netaji Subhash Chandra Bose.
- Para 15: No comments insofar as the contents of the book 'Netaji dead or alive' by Shri Samar Guha are concerned. However, as already stated, Government have as late as in 1991, after taking into account the various points of views, decided to uphold the acceptance by the Government of the findings of the Netaji Inquiry Committee and Khosla Commission that Netaji died in an air-crash on 18th August, 1945, at Taihoku. In view of this position, the announcement dated 23rd January, 1992, about conferment of Bharat Ratna on Netaji as 'posthumous' was in order.
- Para 16: As regards the contents of para 16, although the Civil Writ Petition No.902 of 1984 in the Rajasthan High Court and the

/delivered i.e. 18th January, 1986, are correct, the judgement date of the judgement / was delivered by Shri Justice S.N. Bhargava and not by Hon'ble Shri Justice Kapoor, as stated As regards the direction to the Union of India, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including all the papers and other materials which the Petitioner (Shri Nand Lal Sharma) had claimed that he had at his disposal. The factual position is that it was brought to the notice of Ministry of External Affairs that the Petitioner had died. That Ministry informed Shri Talekar, Counsel of the late Petitioner that as the petitioner had passed away before the meeting with the Ministry of External Affairs/ Government of India representative, no further action was called for on the part of the Government of India. Since no evidence or document of any kind was ever produced by Shri Nand Lal Sharma, the occasion to consider whether or not a fresh enquiry was required, did not arise.

Para 17: The contention of the Respondent about conferment of Bharat Ratna on Netaji and not on Mahatma Gandhi is not relevant as decision to confer Bharat Ratna on Netaji was taken keeping in view the sentiments of the Hon'ble Members of the Rajya Sabha during special mention by Shri Pramod Mahajan, M.P. (Rajya Sabha) on 7th August, 1991 and also in recognition of the public service of the highest order of Netaji.

Para 18: No comments.

Para 19: As regards the contention of the/Respondent with reference to letter dated 22nd July, 1946 of Khurshed Naooji to Louis Fischer dated 22nd July, 1946, even though there is a reference to Bose, it does not say conclusively that Bose was alive.

added
Para 20: The contentions of the Respondent in para 20 calls for no commets
as it has no direct relation with the conferment of award
of Bharat Ratna on Netaji.

Para 21: Needs no comments.

- Para 22: Calls for no comments.
- Para 23: The contentions of the 'added' respondent in para 23 call for no comments, as these have no direct co-relation with the conferment of Bharat Ratna on Netaji.
- Para 24: Calls for no comments.
 - Para 25: The contentions of the/Respondentin para 25 call for no comments except that the Government have accepted the findings of the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an air-crash on 18th August, 1945.
 - Para 26: Requires no comments in view of the decision taken by the Government, notwithstanding its earlier announcement made on 23rd January, 1992, not to take any further action in the matter of conferment of Bharat Ratna on Netaji and to treat the same as closed.
 - Para 27: The position with reference to the contention of the added Respondent in respect of conferment of the award of Bharat Ratna on Netaji posthumously as brought out under the heading 'Grounds' are incorrect and the correct position is indicated as under against each ground:-

GROUNDS

- I&II: No comments since Bharat Ratna is not a title as already explained in reply to paras 2 & 6 above.
- III. The contention of the Petitioner is unfounded and is denied.
- IV. In view of the position already explained in response to paras 10,15 and 25 above, the contents covered in this ground are incorrect insofar as non-acceptance of the reports and findings of Netaji Inquiry Committee (1956) and Khosla Commission (1970) is concerned; that the State has never declared him dead is not correct and that the third Inquiry Commission was not at all ordered by the Prime Minister in 1985 and no such inquiry is pending.

- V. In view of the position already stated in para 10 added above, the contention of the/Respondent under this ground is incorrect and as such denied.
- Para 28: No comments since the contention of the Respondent in para
 28 are his personal views.
 - Para 29: Calls for no comments in view of the position already stated in para 26 above that Government have decided not to take further action and to treat the matter as closed.

Para 30: Calls for no comments.

2. In view of the position explained in the foregoing paragraphs, added the contentions of the / Respondentmerit outright rejection. It is prayed accordingly.

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ANNEXURE

GOVERNMENT OF INDIA PRESS INFORMATION BUREAU

PRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968

(Article 16 of the Constitution of India says:

(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State....").

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PARAWISE COMMENTS IN RESPECT OF AFFIDAVIT ON BEHALF OF ADDED PETITIONER NO.5 NAMELY, DR. SUSHANTA KUMAR MITRA IN RESPECT OF WRIT PETITION C.O. NO.6720 (W) OF 1992 FILED BY SHRI BIJAN GHOSH IN CALCUTTA HIGH COURT.

Para 1: Needs no comments.

Para 2:

The contention of the Petitioner in para 2 of the Affidavit is not correct and is denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of 'Orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundantly clear that the use of Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads. invitation cards, posters, books etc. is against the scheme of the Government as these awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abolished titles. A copy of the said Note is annexed herewith. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Para 3:

on para 16 wells

Requires no comments.

Para 4:

In view of the position stated in para 2 above, it needs no further comments.

Para 5:

As already stated in response to para 2 above, Civilian Awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri are not titles and this position has further been clarified in the Press Note dated April 17, 1968, referred to in para 2 above.

paral 6 and

The allefations of live level and titles

It is denied that the conferment of Bharat Ratna and Padma series of Awards has any relevance to the conferment of titles like Knight, Rai-Bahadur, Sir etc. (conferred by the Britishers. It is also denied that these Civilian Awards are bestowed at the whim and pleasure of the State since all recommendations for these awards are processed through a very elaborate process of screening and possible precautions are taken to award the decorations only to such persons who are really found fit for these high awards. As already stated, Bharat Ratna and Padma series of Awards are not titles but only decorations and the State has the inherent right to confer these decorations. It is a fact that no title was given by the Government not only when it was run by Janta Party/ Janta Dal etc. but also earlier to that since the Constitution had abolished The Civilian Awards of Bharat Ratna, Padma titles. Vibhushan, Padma Bhushan and Padma Shri were instituted in January 1954 by issue of two Presidential Notifications No. 1-Pres./54 2-Pres/54 dated 2nd January, 1954. These awards were to be given for exceptional service towards the advancement of art, literature and science and in recognition of the public service of the highest order/ exceptional and distingth service in any field/ distingtion of service of a high order in any field including the service rendered by Government servants. It was further provided in these Notifications that any person without distinction of race, occupation, position or sex shall be eligible for these awards and that these decorations may be awarded posthumously. As already stated with reference to para 6 above, no titles had been conferred by the State after Independence and only awards and decorations have been given in recognition of individual acts of outstanding merits in the sphere of social work, art, science and literature,

Para 7:

- 3 -

to acts of gallantry in the battle field and in other fields of service and to acts of conspicuous devotion to duty in general. It is a fact that in 1977, the then Government cancelled the institution of Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. It is incorrect that the then Prime Minister, Smt. Indira Gandhi, decided to award Bharat Ratna to herself in the year 1971. As regards the writ petitions stated to be pending before the High Court at Rajasthan challenging the conferment of Bharat Ratna on Nehru, Indira Gandhi and Rajiv Gandhi, nothing has been brought to the notice of this Ministry either Registry of the Rajasthan High Court or by the Government of Rajasthan.

Para 8:

The contention of the Petitioner about conferment of Bharat Ratna posthumously on Shri Rajiv Gandhi, is denied. It is also denied that Lal Bahadur Shastri has not yet been conferred the award of Bharat Ratna, since this highest civilian award was conferred on him in 1966.

Para 9: The contentions of the Petitioner in para 9 are incorrect and are denied.

Para 10: The contention of the Petitioner in para 10 is incorrect and denied since the Government has already accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an air-crash at Taihoku on 18th August, 1945.

It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as posthumous.

Para 11: As regards an investigative inquiry alleged to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

In view of the various documents submitted in the evidence and considered by the Netaji Inquiry Committee/
Khosla Commission and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an aircrash on 18th August, 1945, no useful purpose would be served by taking up with the concerned authorities of archives or K.G.B. as contended by the Petitioner in this para.

Para 12:

The contentions of the Petitioner in para 12 are denied.

as these are his personal views.

Para 12A:

Needs no comments as this is a reproduction relating to the terms of reference of Netaji Inquiry Committee and the recommendation of the Committee.

Para 12B:

No comments as contention of the Petitioner in this para reflects his personal views about Shri G.D. Khosla.

Para 13:

The contentions of the Petitioner in para 13 are self-explanatory and need no comments as far as publishing a book namely "Last Days of Netaji s" and its subsequent withdrawal from circulation is concerned.

As far as the statement made by the then Prime Minister in the Lok Sabha on 28-8-78 (not on September 3, 1978 as contended in the petition), is not complete in itself inasmuch as the last sentence of the said statement placement. Shri Morarji Desai also added that no useful purpose would be served by having any further inquiry! has not been reproduced therein.

Lefitimes petitiones

last sentence vitue statement has been omitted by the petitions,

As regards the statement attributed to Shri Dhaniklal Mandal on 11th April, 1979, it relates to a reply given by the then Minister of State in the Ministry of Home Affairs (Shri Dhaniklal Mondal) to Question No.6626 on 11th April, 1979 and not the statement as contended by the Petitioner. However, the matter was considered by the Government as late as in February, 1991 and it was decided that since we have already ad already two inquiries on the disappearance of Netaji and Government having already accepted that Netaji died in the aircrash on 18th August, 1945, at Taihoku, no useful purpose would be served by holding another inquiry or bringing the ashes back to India at present, as this might create unnecessary tentions.

It is, therefore, denied that the findings and reports of Netaji Inquiry Committee and Khosla Commission have not conclusive. However, as already stated, Government of India has taken a decision not to proceed any further in the matter of conferment of Bharat Ratna on Netaji Subhash Chandra Bose. In view of this position, the apprehension of the Petitioner about Government of India bestowing the award of Bharat Ratna on Netaji

Para 15:

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No comments in so far as the contents of the book
'Netaji, dead or alive' by Shri Samar Guha are concerned.

However, as already stated Government have as late
as in 1991 have after taking into account the various
points of views decided to uphold the acceptance by
the Government of the findings of the Netaji Inquiry
Committee and Khosla Commission that Netaji died in
an air-crash on 18th August, 1945, at Taihoku. In
view of this position the announcement dated 23rd
January, 1992 about conferment of Bharat Ratna on
Netaji as "posthumous" was in order.

Governmen

- Para 14: No comments since the findings of the Netaji Inquiry Committee and the Khosla Commission have already been accepted by the Government of India. As already stated, no record is avilable in the Ministry of Home Affairs with reference to the investigative inquiry alleged to have been declared by the Government of India headed by Shri Chandrasekhar. The contention of the Petitioner that the Government of India never accepted the reports and findings of the two Inquiry Commissions are not correct.
- Para 14A: The contentions of the Petitioner are not relevant since the Government of India have already accepted the findings of the two Commissions that Netaji died in an air-crash on 18th August, 1945.
- Para 14B: The contentions adduced by the Petitioner in this para are only extraneous in view of the fact that Government have already accepted that Netaji died in an air-crash at Taihoku on 18th August, 1945.
 - Paras 14: No comments in view of the acceptance by the Government of the C,D &E

 findings of the Netaji Inquiry Committee and the Khosla Commission.

 The reference to the bad treatment meted out to INA personnel in post British India has no direct relevance with the issue relating to conferment of Bharat Ratna on Netaji Subhash Chandra Bose.
- Para 15: No comments in so far as the contents of the book 'Netaji dead or alive' by Shri Samar Guha are concerned. However, as already stated, Government have as late as in 1991 have, after taking into account the various points of views, decided to uphold the acceptance by the Government of the findings of the Netaji Inquiry Committee and Khosla Commission that Netaji died in an air-crash on 18th August, 1945, at Taihoku. In view of this position, the announcement dated 23rd January, 1992, about conferment of Bharat Ratna on Netaji as 'posthumous' was in order.

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PARA 16:

As regards the contents of para 16, although the Civil Writ Petition No.902 of 1984 in the Rajasthan High Court and the date of the judgement delivered i.e. 18th January, 1986, are corrected, the judgement was delivered by Shri Justice S.N. Bhargava and not by Hon'ble Shri Justice Kapoor, as stated therein. As regards the direction to the Union of India, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including all the papers and other materials which the Petitioner (Shri Nand Lal Sharma) had claimed that he had at his disposal. The factual position is that it was brought to the notice of Ministry of External Affairs that the Petitioner had died. That Ministry informed Shri Talekar, Counsel of the late Petitioner that as the Petitioner had passed away before the meeting with the Ministry of External Affairs/ Government of India representative, no further action was called for on the part of the Government of India. Since no evidence or document of any kind was ever produced by Shri Nand Lal Sharma, the occasion to consider whether or not a fresh enquiry was required, did not arise.

Para 16: (Since this is a specific contention, <u>IS Division</u> are in a better position to state the facts in reply to this para).

Para 17: The contention of the Petitioner about conferment of Bharat Ratna on Netaji and not on Mahatma Gandhi is not relevant as decision to confer Bharat Ratna on Netaji was taken keeping in view the sentiments of the Hon'ble Members of the Rajya Sabha during special mention by Shri Promod Mahajan, M.P. (Rajya Sabha) on 7th August, 1991 and also in recognition of the public service of the highest order of Netaji.

Para 18: No comments.

Para 19: As regards the contention of the Petitioner with reference to letter dated 22nd July, 1946 of Khurshed Nao@roji to Leuis Fisher dated 22nd July, 1946, even though there is a reference to Bose, it does not prove conclusively that Bose was alive.

Para 20: The contentions of the Petitioner in para 20 calls for no comments as it has no direct relations with the conferment of award of Bharat Ratna on Netaji.

Para 21: Needs no comments.

Para 22: Calls for no comments.

Para 23: The contentions of para 23 call for no comments, as these have no direct co-relation with the conferment of Bharat Ratna on Netaji.

Para 24: Calls for no comments.

Para 25: The contentions of the Petitioner in para 25 call for no comments except that the Government have accepted the findings of the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an air-crash on 18th August, 1945.

Para 26: Requires no comments in view of the decision taken by the Government, notwithstanding its earlier announcement made on 23rd January, 1992, not to take any further action in the matter of conferment of Bharat Ratna

on Netaji and to treat the same as closed.

Para 27: The position with reference to the contention of the Petitioner in respect of conferment of the award of Bharat Ratna on Netaji posthumously as brought out under the heading 'Grounds' are in incorrect and the correct position is indicated as under against each ground:-

GROUNDS

- I&II: No comments since Bharat Ratna is not a title as already explained in reply to paras 2 and 6 above.
- III. The contention of the Petitioner is unfounded and is denied.
- IV. In view of the position already explained in response to paras 10, 15 and 25 above, the contents convered in this ground are incorrect in so far as non-acceptance of the reports and findings of Netaji Inquiry Committee (1956) and Khosla is concerned Commission (1970); that the State has never declared him dead and that the third Inquiry Commission was not at all ordered by the Prime Minister in 1985. and no such inquiry is besiding.
- V. In view of the position already stated in para

 be no above, the contention of the Petitioner under this ground is incorrect and as such denied.
- Para 28: No comments since the contention of the Petitioner in para 28 are his personal views.
- Para 29: Calls for no comments in view of the position already stated in para 26 above that Government have decided not to confer the decoration of Bharat Ratna on Netaji and to treat the matter as closed.
- Para 30: Calls for no comments.
- 2. In view of the position explained in the foregoing paragraphs, the contentions of the Petitioner merit outright rejection.

It is prayed accordingly.

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V.P. BHATIA, UNDER SECRETARY(PUB. & VIG.), TEL. NO.3012421. NO.1/27/91-Public

Dated: 15-11-1993.

Dear Shri Kundu,

Kindly refer to my d.o. letter of even number dated 22nd October, 1993, sending therewith parawise comments in response to the writ petition filed by the Added Respondent Dr. Sushant Kumar Mitra in the matter of C.O. No.6720 (W) of 1993 - Bijan Ghosh Vs. Union of India and others for your immediate attention and settlement of the required Affidavit-in-Opposition. I hope the said Affidavit-in-Opposition would have been settled by now by the Senior Panel Counsel, Shri R.N. Das. If the same has not yet been done, it is requested that the same may kindly be attended to on priority basis and the settled Affidavit-in-Opposition on behalf of the Union of India sent to this Ministry without any further delay of time so that the said Affidavit-in-Opposition could be filed in the High Court at Calcutta.

2. I shall be grateful if the matter could be attended to on top priority basis and necessary Affidavit-in-Opposition, duly settled, in the prescribed proforms returned to me by Speed Post.

With regards,

Yours sincerely,

W (V.P. Bhatia)

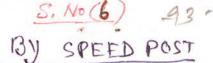
Shri S.K. Kundu, Senior Central Government Advocate, High Court at Calcutta, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs, 4-K.S. Roy Road, Calcutta.

BY SPEED POST Copy to Shri R.N. Das, Senior Panel Counsel, Calcutta High Court, 88, Chowrangee Road, Calcutta, with the request that the Affidavit-in-Opposition in response to the writ petition filed by Dr. Sushant Kumar Mitra, an added Respondent may kindly be sent to this Ministry duly settled either directly or through Shri S.K. Kundu, Senior Central Govt. Advocate as considered appropriate. The Affidavit-

of added Respondent namely Dr. S.K. Mitra has already been made available to you along with set of main petition and other petitions supplied to you by me personally.

m

(V.P. Bhatia)
Under Secretary to the Govt. of India.





S.K.Kundu Central Govt. Advocate. GOVERNMENT OF INDIA
विधि और न्याय मन्त्रालय
MINISTRY OF LAW & JUSTICE
(विधि कार्य विभाग)
(DEPARTMENT OF LEGAL AMPAIRS)
णाखा सचिवालय
BRANCH SECRETARIAT
4, किरण शंकर राय रोड, कलकत्ता-700 001
4, K. S. ROY ROAD, CALCUTTA-700 001

भारत सरकार

D.O. No. 15/B/Home/93/736 678A Dated the 19th November 1993

Dear Shri Bhatia,

This has reference to your D.O.No.1/27/91-Public dt. 15.11.93 in connection with C.O.No.6720(w)/93 (Bijan Ghosh -vs- Union of India & Ors.).

I am forwarding herewith a copy of the Affidavit in opposition filed by the writ petitioner against the petition filed by the respondents claiming privilege under sections 123 and 124 of the Evidence Act read with Article 74(2) of the Constitution of India. Please supply us the comments on the same at an early date to enable our learned counsel to prepare the Affidavit in reply at an early date and to have it affirmed before the case appears for hearing.

Please treat this as VERY URGENT and do the needful at an early date.

With regards,

Yours sincerely,

Encl:copy of the A/O filed by Bijan Ghosh.

(S K KUMOU) 19/11/93

Shri V.P.Bhatia, Under Secretary (Pub.& Vig.) Ministry of Home Affairs, North Block, New Delhi 110001.



CHAMBER 22A CHAKRABERIA LANE CALCUTTA 700 020 bijan ghosh HIGH COURT CALCUTTA 18 Nov 1993 BAR ASSOCIATION ROOM NO II BAR 28 3190 28 5579 W. Mr. Susanta Lundan Sr. Contral Govt Adv. Calutha . 700001 C.O. 6720 (W)/1993 Ro. Bijan Thosh Union of India & Oss Affidavit - he opposition Sub: to Petition claiming Privilege Enclosed, please finda copy of A/o to affidait of terpondent not claiming phisologo. Near Sir, Thank your thistilly, Ajdighol.

SUNDAY MORNING : NEAR AKSHAYA BIDYAPITH, NEDERPARA, KRISHNANAGAR DIAL 212

DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA CONSTITUTIONAL WRIT JURISDICTION (APPELLATE SIDE)

In the Matter of : C.O. No. 6720 (W) of 1993; and and capacitase,

Leich In the Matter of :

An application under Article 226 of the Constitution of India;

Sanling-And-

In the Matter of :

Bijan Ghosh PETITIONER

proper one tiple.

-Versus-

Union of India and Others

Affidavit-in-opposition of the stitioner abovenamed in relation to the affidavit of the respondents claiming privilege under Sections 123 and 124 of the Evidence Act read with Article 74(2) of the Constituion of India the Sections 198 and tid of the actionson

I, Bijan Gnosh, son of Shri Benoy Krishna Ghosh, aged about 37 years, by occupation Advocate practising at High Court, Calcutta, residing at B-172, B.E.College, Howrah-3, do hereby solemnly affirm and say as follows :-

- I am the petitioner abovenamed and am fully conversant 1. with the facts and circumstances of the cuse. Continue Continue
- to the all of thick of the second still the I have gone through the copy served on me of the affidavit of Shri N.N.Vohra, Secretary to the Government of India, Ministry of Home Affairs, purported to be affirmed on 28th

September, 1993 (hereinafter referred to as the said affidavit) and have understood the contents and purport thereof.

- Save and except what are admittedly matters of record and what are specifically admitted hereunder, I deny and dispute each and all allegations in the said affidavit as if the same were set out hereunder and specifically traversed, denied and disputed secretim.
- I reiterate each and every statement and submission contained in my writ application (nereinafter referred to as the patition) and my subsequent application and affidavits filed in the proceedings relating thereto and deny and dispute each and allegations in the said affidavit of Shri N.N.Vohra, as are contrary thereto or inconsistent therewith.
- 5. Before dealing with the allegations contained in the several paragraphs of the said affidavit, I beg to state the following facts in relation thereto:-
 - (a) The said affidavit has neither been made nor affirmed either properly or in accordance with law, nor does it contain the proper cause title;
 - (b) The said affidavit has been purported to be affirmed upon a clear mis-conception and/or mis-construction of the provisions of the Sections 123 and 124 of the Evidence Act as also Article 74(2) of the Constitution of India, so far as the said statutory and constitutional provisions have been sought to be relied on in relation to the facts and circumstances of the present case and the obligation on the part of the Government of India to comply with the direction of this Hon'ble Court requiring production of all relevant records in connection with the adjudication of the above-mentioned writ application under Article 226 of the Constitution of India filed by me before this Hon'ble Court.

- (c) The said affidavit has been purported to be affirmed in utter disregard and/or withbut proper advertance to the settled principle of law that in writ proceedings in which the respondents are required to produce the relevant records as part of their return to the notice of the writ application, any claim of privilege by the respondents with a view to withholding such records from production is at the risk and peril of such respondents, inasmuch as even if such claim of privilege is sustained by this Hon'ble Court after hearing the parties and consequently the said records are not produced by the respondents, the position will be the same as if there is no proper return on the part of the respondents to the notice of the writ proceedings. The respondents having chosen on their own volition to withhold such records will, therefore, be precluded from justifying their impugned action by pretending to rely on such undisclosed records, which will not be treated as having disclosed, even if the same are produced before the Court for examining the justifiability of the pretended claim of privilege, because the Court can not decide the points of controversy involved in the writ proceedings on the basis of personal knowledge.
- (d) The position will be worse still in a case where the respondents have been called upon by this Hon'ble Court to produce such records but the same are not produced sequel to a claim of privilege, inasmuch as the respondents will by their own volition preclude themselges in such a situations too, from contending that their impugned action is justified with reference to such records and this Hon'ble Court will be free to decide the case by proceeding on the basis of as if there are no such records.
- (e) The records of the respondents as are required to produce under the direction of this Hon'ble Court & do not belong to the clause to which any claim of privilege is relatable in

law, nor can or do those records contain anything, which can be withheld from production before this Hon'ble Court for furthering any cause of public interest warranting making of any claim of privilege in respect thereof;

- (f) In any event no such harm to any public interest can be claimed in support of withholding of the said documents as would out-weigh the greater harm to public interest that will be done by withholding the said records for throttling the process of administration of justice, which is always airmed at serving a public interest, which the judiciary is enjoined under the constitution and the rule of law enshrined thereunder to serve in a democratic set up, as of ever prours.
- (g) The purported claim of privilege is not founded on any benafide consideration as to any possible harm to any public interest, which might suffer by the disclosure of the records, which the respondents are required to produce and have been called upon to produce by this Hon'ble court.
- (h) The deponent has no legal authority to withhold the permission to produce the said records or to disclose their contents or to give any evidence derived therefrom by putting forward a pretended claim of privilege without any material to sustain such claim on any valid or bonafide ground that might be claimed to exist in favour of non-disclosur, upon a proper or real assessment of the nature and contents of such records consistently with the norms leid down in the said regard by the Hon ble Supreme Court in its various decisions going to the root of the principles contained in the said statutory and constitutional provisions;
- (1) The instant claim of privilege has been made mechanically and without any or any proper application of mind and to subserve collateral interest and in any event partial

interest viewed exclusively from a narrow departmental angle and constitutes a tendencious action of the executive to exclude evidence even if such action renders the process of administration of justice nugatory or inadequate and thereby a greater harm is done to the public interest at large;

- (j) The pretended claim of privilege is a mere subterfuge to defeat the ends of justice by withholding such records knowing it fully well that such records, if produced, will go against the respondents and prove the case of the writ petitioner and the plea of privilege is nothing but an executive device wearing merely a cloak of bonafide to shut out evidence with a view to evade judicial review of executive action.
- Sections 123 and 124 of the Evidence Act read with Article 74(2) of the Constitution of India, the Government is required under the law to conform to the norms and parameters haid down by the Courts including the Supreme Court and simply because an affidavit has been purported to be smorn by a Secretary to the Government purporting to classify certain documents without event identifying them precisely, a claim of privilege does not lawfully arise, nor can any such claim be treated to be on record. The filling of any such affidavit, as in the instant case, only constitutes an utterly malafide obstructive and dilatory device to do substantial harm to the public interest by jeopardising the public interest inherent in the judicial process of a democratic country envisaging an open society governed by rule of law.
- 7. Any suchoclaim of privilege even if raised in due compliance with the requirement of law and by following the norms and parameters judicially laid down in the said regard cannot by itself be used as a weapon by the executive against the judicial

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process and that is precisely the reason why any such claim of privilege is subjected to the greatest amount of judicial scrutiny in order that the executive cannot by abusing the process of law render the judicial process nugetory or ineffective by purporting to classify and/or describe certain records or documents dealt with by it as being entitled to protection against disclosure by attaching their self made standard of secrecy and confidentiality to such records and documents to subserve the collateral interest behind the withholding of such documents and records from disclosure in a Court of Law discharging a very important State function as an organ of the State.

object be allowed to do harm to the cause of justice and thereby to a greater public interest by withholding State records from judicial scrutiny by raising the piea of privilege by couching the claim even in high sounding words like secrecy and confidentiality. It is because the Courts in our country have in the course of functioning of the democratic set up under our Constitution come across instances of such abuse of the process of law in raising the plea of privilege particular matters having political background or significance that it has been consistently held by them that all such claims of privile are required to be subjected to the greatest scrutiny in order to ensure that the cause of public interest serve by the judicial process does not, in any way, suffer thereby.

- 9. Each and all allegations in the sald affidavit contrary to the aforesaid are dealed.
- 10. Without prejudice to the aforesaid, I am now dealing with the allegations contained in the several paragraphs of the said affidavit as hereunder.
- It will crave reference to the relevant orders and directions of this Hentble Court Segrading production of records and do not admit any silegation contrary to the actual contents and purport thereof.
- 12. With reference to paragraph 2 of the said affidavit,.

 I do not admit the allegations contained therein except that i that the deponent appears to be the Secretary to the Government of India, Ministry of Home Affairs.
- 13. With reference to paragraph 3 of the said affidavit, I reiterate the statements made hereinbefore and deny all allegations contrary thereto. I specifically deny and dispute that the said affidavit constitutes any proper affidavit for claiming privilege in respect of production of any records or that the deponent is competent to make any such claim, as purported to be done.

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With reference to paragraph 4 of the said affidavite 14. I reiterate the statements made hereinbefore and deny all allegations contrary thereto. I specifically deny and dispute . thatixe the records required to be produced under the orders of this Hon'ble Court are such unpublished official records relating to the affairs of the State or contain such communication made to public officers in official confidence as are entitled to any privilege from disclosure under any provision of law or constitution or that disclosure of such records would cause any injury to the public interest or that the same are protected by Sections 123 and 124 of the Evidence Act, as purported to be alleged. I also deny and dispute that the disclosure of such records would be violative or any provision of Article 74(2) of the Constitution of that the same contain any advice tendered by the Ministers to the President, as purported to be alleged.

I specifically deny in and dispute the submission that the records ordered to be produced being to any class of documents, which is required under any or any lawful practice to be kept secret for ensuring proper functioning of the public service or even otherwise or that the same include notes and minutes by officers and Ministers on files, as purported to be alleged. I further deny and dispute that such notes and minutes of any notes submitted to the Cabinet Committee on Political Affairs or the decision of the said Committee are or can be classified as Secret within the meaning of the said legal and constitution at provisions for being entitled to any protection from disciposure either as part of return to the notice of the writ

proceedings and/or under orders of this Hon'ble Court, passed therein.

affidavit I say that the veil of secrecy sought to be put on over such records has no legitimate foundation and the purported classification in both arbitrary and illusory, Relating as they do to a public function of the State which is required to be done publicly, the connected records relating to the award of Bharat Ratna to Netaji Subhas Chandra Bose and that too posthumously can not be secreted by withholding the same from the process of judicial review of executive action and the very attempt to do so goes to the roof of the illegality and maisfide of the impugned action complained of in the writ proceedings. All allegations contrary to the aforesaid are decide.

If. With reference s to paragraph 6 of the said affidavit I deny and dispute the allegations contained therein. I say any that it clearly appears that there has not been judicious sex or careful examination of the question as to whether the disclosure of any such record either as part of return to the notice of the writ proceedings and/or under the orders of this Hollie court passed therein would cause injury to public interest and that the deponent had not and could have any largide missaction that their disclosure would cause injury to public interest or that the public interest would injury to public interest or that the public interest would

suffer thereby. I further say that on the contrary there has been a deliberate attempt, both recklessly and malafide to six act in gross abuse of the process of law for suppressing the said records by withholding the same from the purview of the judicial process by raising the pretended plea of claim of privilege with regard thereto and by making palpably false averments in purported support of such pretended plea. There is no evidence as to any examination of any such question in the said affidavit, nor has the norm or extent of any such alleged examination been disclosed. The purported claim of privilege is sought to be supported by means of certain bold allegations only. All allegations contrary to the aforesaid are denied.

Ideny and dispute that the deponent has withheld in accordance with law permission to produce the said records or any records required to be produced as part of * return to the notice of the writ proceedings and/or * under the orders of this hon ble Courpassed therein or ato disclose their contents or to give any evidence received therefrom or can do so in the facts and circumstances of the case as purported to be done. I further deny and dispute that any claim of privilege under Sections 123 and 124 of the Evidence Agt read with Article 74(2) of the Constitution is available in respect of the contents of the said records as purported to be specified under sub-paragraphs (1) to (vi) of the said paragraph of the said affidavit. I say

- 11 -

that in respect of the records which the deponent purports to withheld only a cryptic reference has been made without actually trying to couvey any idea as to their contents and purport or about their news to the question or claim of privilege. I will crave reference in this connection to the relevant statutory and constitutional provisions and the judicial decisions having a bearing thereon at the time of hearing, if necessary, and do not admit andy allegation contrary to the actual contents and purport thereof. I say that the said statutory and constitutional provisions and no part thereof are attracted in the fact and circumstances of x the present case and the pretended recourse thereto has been purported to be taken to do the greatest harm to the process of administration of justice in a case involving grave national issues of public importance. All allegations contrary to the aforesaid are denied.

affidavit, I say that the respondents have taken a definite stand in the affidavit-in-opposition affirmed by an Under Secretary to the Government of India, Ministry of Home Affairs that they have treated Netaji having died in a plane crash on August 18, 1945 on the basis of the reports of the Netaji Enquiry Committee 1956 and the Netaji Enquiry Commission 1970 notwithstanding the subsequent statement made in Parliament by Prime Minister Morarji Desai in the year 1978 to the effect that in view of the reasons stated by him the Government of India no longer consider that those earlier

conglusions are decisive. If that be so, there can be no question of secrecy of privilege about my record or document relating to any decision on the question as to whether Netaji is dead or alive either in the context of award of Bharat Ratna to him or otherwise, because the proceedings before the said two enquiry bolies are already public. It is only if the expression "posthumously" has been used while making the said award on him on January 26, 1992 with reference to any report of his death at any subsequent point of time under any mysterious circumstances, which the Government for reasons best known to them do not want to disclose to the prople of this country, that they might be compelled for extraneous reasons to be loath to divulge the fact or to disclose the records relating thereto for collecteral purpose and oblique motive. That not being their case, neither the question of any executive secrecy nor or any claim of privilege relating thereto can arise. The veil of secreby as the purported plea of privilege is, therefore, a myth and the claim of privilege should fall on this ground alone. All allegations contrary to the aforesaid are denied.

20. With further reference to paragraph 7 of the said affidavit, I say that it is the admitted case of the respondent that they proceeded to consider the question of awarding Bharat Ratna on Netaji on the basis of such question having been raised in Parliament in recent times by some members of

Parliament and the award was accordingly made keeping in view the feelings expressed by the said Parliamentarians. There can, therefore, be no element so secrecy attached to the processing of the proposal for conferring the award of Bharat Ratna on Netaji and no claim of privilege can be made in respect of the records relating there to. If the Court's power to judicial review of executive action in making such awards is allowed to be throttled by entertaining such utterly fictitious claim of privilege in such matters of public interest, where the people of the country have a right to know why and under what circumstances such distinctive treatment is meted out to the citizens, the executive will be armed with arbitrary and discriminatory powers of unrestricted dimensions and the power, if anyk, to confer such distinction, will be rendered x capable of being exercised capriciously and on extraneous considerations and with the oblique motive of causing discrimination, none of which can be allowed to be a sociated with any public function of the Government machinery supposed to be carried out publicly, fairly and justly. Therefore, the attempt to secreter the said records by putting up a thoroughly motivated claim of privilege is completely outside the scope and ambit of any constitutional or statutory provision affording any such protection against disclosure to any class of documents. MixelkegatimagagentenkyxtaxkbaxHfaxxeHfaxHaxx A Government which assests it stand as to Netaji having died in a plane crash on August 18, 1945 on the purported basis of

the reports of the earlier enquiry bodies whose conclusious have subsequently held by the Government as not being decisive is bound to disclose all materials and facts in support of such self-defeating assertion and no claim of privilege is available in law against such pretended claim of non-disclosure of such documents. The fact that the Provident of India was pleased to release in an efficial function the book of Prof. Samar Gha -"Netaji - Dead or Alive" in the year 1978, although the said book contains an elaborate analysis of the purported of the Netali Enquiry SKODDBEZKKINKE KREZERE Commission 1970 and conclusive findings as to the atterly perverse and emormous nature of the conclusions of Justice Khosla and the President having the on the occasion called upon a finally country to returned to us our beloved Netaji does by itself leese no scope for contending to the contrary or for withholding records on the question of the alleged death of Netaji from the process of judicial review of such perverse stand of the executive against the de taken by the President and Prime Minister of the Ametr Country.

21. With further reference to paragraph 7 of the said affidavit and particularly the purported particulars regarding the alleged contents of the records sought to be furnished in the several sub-paragraphs there of including sub-paragraphs (i) to (iv), I say that there is nothing to show that the same are based on records referred to therein or that there is no concealment of any fact relating to the contents and purport thereof or that the same contain any question whether

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any and if so that advice was tendered by the Ministers the President or that the same debar any enquiry by this Hon ble Court within the meaning of Article 74(2) of the Constitution of India. I say without prejudice to the aforesaid that any document or proceeding not being or actually containing the advice tendered by any Minister to the President, although relating to the formalation or processing of such advice is not entitled to the protection of the said constitutional provision. I further say that there can be no secrecy in any note relating to the impugned Award, nor can any such note or notes by senior officers of the Government of India be classified as Secret under Sections 123 and 124 of the Evidence Act, nor can any such purported classification by the deponent render any such record to be entitled to enjoy such classification for sustaining any x claim of privilege under the said statutory provision. I further say that communications made in official confidence to the officers of the Ministry of Home Affairs regarding the impugned Award do not by itself take away such communications from the scope of judicial scrutiny, nor can the same be withheld from protection before this Hon ble Court on the purported plea of claim of privilege under the said statutory provision. All x allegations contrary to the aforesaid are denied.

Contd...16

22. With furerht reference to paragraph 7 of the said affidavit and particularly sub-paragraph (V) hereof, I say that I do not accept the existence of any wife or daughter of Netaji Subhas Chandra Bose and mall upon the deponent to produce documentary proof of the marriage of Netaji and birth of a daughter to him through any such marriage and the circumstances under which any correspondence could be had by the Ministry of Home Affairs with any such person or persons purported to be described as wife and daughter of Netaji. I also call upon the deponent to states and www.x substantiate if such persons with whom such correspondence is alleged to have been made as wife and daughter of Netaji are Indian Citizens. I say without prejudice to the aforesaid and without in any way admitting the allegations in the said regard that by no stretch of imagination can any such correspondence with any person or persons regarding the impugned Award can come under the category of documents to which sections 123 and 124 of the Evidence Act relate. Such documents not admittedly being in exclusive possession of the Government of ker India, because of outsiders being admittedly parties thereto, can not be treated as official secret and the purported plea of privilege is illusory. Withholding of such records from the process of judicial review on such pretended plea of privilege does in fact as well as law records against the very concept of justice. All allegations contrary to the aforesaid are denied.

23. With further reference to mragraph 7 of the said aff davit and particularly sub-paragraph (vi) thereof, I say

that to Note for the Cabinet Committee on Political Affairs on the subject of the dispute regarding the ashes of Netaji Subhas Chandra Dose nor any controversy about whether he is dead or alive, nor any decision of the said Committee thereon can by itself relate to Sections 123 and 124 of the Evidence Act. farless constituting any advice tendered to the President by any Minister within the meaning of Article 74(2) of the Constitution of India. I say without prejudice to the aforesaid that existence of cogent evidence about the death of Netaji Submas Chandra Bose at the time of making of the impugned Award is directly related to the question as to whether any such Award could lawfully be treated and described as posthumous and the withholding of any such evidence or immaterial relating thereto is tantamount to failure on the part of the respondents to prove the factum of the alleged death of Netaji, rendering in the alleged direction and/or description of the impugned Award as posthumous, inoperative, null and void and particularly lacking in any legitimate fundation. The stand taken with regard to the alleged death and the alleged ashes of Netaji is totally inconsistent with the facts and records which are already known to the people and there can wi neither be any secrecy, nor any question of privilege in respect of any record known touching upon the subject, unless of course the deposit's sole object is to hide out facts only to avoid embarsement for not having caome forward with the birth. The claim of privilege is hardly meant for any such situation or purpose. All allegations contri to the aforesaid are denied.

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With reference to paragraph 8 of the said affidavit, 24. I say that the submissions contained therein is a pretended show of bonafide to cover up the fact of deliverate nondisclosure of the relevant records required to be produced under the orders of this Hon'ble Court under a totally false and malafide claim of privilege, which is neither maintainable in law nor sustainable on the basis of particulars constituting such plea. Such submission by itself, howsoever decorative, cannot convert such a plea into bonafide or legitiante one, nor can such plea be maintainable either in law or in facts on the basis of the particulars purported to be furnished in the said affidavit. I say without prejudice to the aforesaid and assuming without admitting that the said affidavit makes out even a prima facie case warranting a claim of privilege in respect of the records in question, this Hoh'ble Court has the requisite power, authority and jurisdiction, even without any submission to that effect by the deponent, to go into the said recores for deciding the question of privilege and the respondents on whose behalf the said affidavt has been sought to be made are bound to produce such records before this Hon'ble Court for the said purpose, if this Hon'ble requires to look into the same for the purpose of deciding the question of privilege after having the parties and after considering the their affidavits on such question, All allegations contrary to the aforesaid are denied.

25. Each and all allegations in the said affidavit contrary to and save as aforesaid are denied.

I submit that the said affidavit does not constitute any or any valid affidavit for raising or sustaining any claim or privilege and the same is liable to be rejected in the ends of Justice. It is further submitted that tak in the facts and circumstances of the case this Hon'ble Court should reject the purported claim of privilege straught wa away in the ends of justice without even looking into the records sought to be withheld for disclosure for the purpose of deciding such pretended claim, which is not based on any valid plea against non-disclasure.

Statements made in foregoing paragraphs 1 to 25 (both inclusive) are true to my knowledge, while those in paragraph 27 are my respectful submission before this Hon ble Court.

Prepared in my office.

Bejan Glash
Advocate

The deponent is known to me.

Joydo Tarafilar.

Clerk to Mr. S. K. Muchaja

Advocate

Solemnly affirmed before me this the /BT/day of November, 1993.

Commissioner.

DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUITA

Constitutional Writ Jurisdiction

(Appellate Side)

In the matter of : C.C.No.6720 (W) of 1993;

And

In the matter of :
An application under Article 226 of the Constitution of India;

And
In the matter of :
Bijan Ghosh

... Petitioner

-Vg-

Union of India & Ors.

... Respondents

Afficavit-in-Coposition

Mr. Bijon Ghosh
Advocate
Bar Assn. Room No.11
High Court, Calcutta.

5. NO.7 215 - Pa Government of India S. K. KUNDU Ministry of Law & Justice CENTRAL GOVT. ADVOCATE Department of Legal Affairs Branch Secretariat, Calcutta, 4, K.S. Roy Road, Calcutta - 1 SPEED POST. 15/B/Home/93 737 679 ADated 19.11.93 To Shri V.P.Bhatia Undersecretary (Pub.& Vig.) Ministry of Home Affairs, North Block New Delhi 110001. Dear sir. Sub: CR No.6720(w)/93 Bijan Ghosh -vs-Union of India & Ors. Enclosed please find herewith the draft Affidavit-in-opposition on behalf of the respondent No.5 in connection with the above matter. This may kindly be finalised and returned to us at an early date. Yours faithfully, Encl: As above.

Affidanité Sushanta Kr. Mikan Settler CUTTA

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DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

(Appellate Side)

C.O. No. 6720(W) of 1993

In the matter of :

An application under Article 226 of the Constitution of India.

And

In the matter of :

Shri Sushanta Kuman Mitra Versus

Added Respondent

Union of India & Anr.

... Respondents.

Affidavit in Opposition for and on behalf of Respondent No. + 1

I, V. P. BHATIA son of late # SHRIM L BHATIA aged about 50 years, by occupation, service, working for gain at New Delhi-11003, do hereby solemnly affirm and say as follows :-

- 1. I am Under Secretary in the Mimistry of Home Affairs,
 Government of India and am filing this Affidavit-in-Opposition
 for and on behalf of respondent No.1 herein and I am acquainted
 with the facts and circumstances of the case.
- 2. I have been duly authorised and am competent to make and affirm this am affiravit on behalf of the respondent No.1.
- 3. I have read a copy of the Affidavit of Shri Suskability

+ Save and except what are matter of record and some and energet what have been sprifically admitted Lemin I day and contentions in the remaining paragraphs.

and I have understood the contents, meaning and purport thereof.

- 4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the same affidavit what are relevant and material for deciding the main issue of the instant petition. +
- 5. Save except what are matters of records and said what appears therefrom I deny each and every allegations made in the said affidavit and put the deponent to strict problet thereof.

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With reference to paragraphs 2 of the said affidavit, I deny and dispute, the statements made therein save what are matters of records and save what appears therefrom I am state that the contention of the added Respondent in para 2 of the Affidavit is not correct and is denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by ways of 'Orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other frx fields of service and to acts of conspictous devotion to duty in general. A Press Note was issued by the Government of India on April 17, 1968, making it abundant clear that the use of Civilian awards such as Padma Vibhushan. Padma Bhushan and Padma Shri as titles in letter heads, invitati -on cards, posters, books etc, is against the scheme of the Government as these awards are not titles and their use miss along with the names of individuals is contrary to the sprit of the Constitution which has abolished titles. A copy of the said Press Note is annexed herewith. It was also emphasised in this Press Note that nocivilian award should be affixed or pre-

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prefixed with the name of the awardee to give an appearance of a title.

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- 7. With reference to paragraph 5 of the said affidavit I deny and dispute, the statement made therein save what are matters of records and save what appears therefrom I state that Civilian Awards like Bharat Ratnam Padma Vibhushan, Padma Bhushan and Padma Shri are not titles and this position has been clarified in the Press Note dated April 17, 1968, referred to in para & above.
- 8. With reference to paragraph 6 of the said affidavit,
 I deny and dispute, the statement made therein save what are matt
 -ers of record and save what appears therefrom I state that the
 allegations of the added Respondent are denied. Civilian awards
 conferred by the Government of India are not titles.
- I deny and dispute, the statements made therein save what are matters of record and save what appears therefrom I state that the contention of the Petitioner about conferment of Pharat Ratna posthumously on Shri Rajiv Gandhi, is denied. It is also denied that Lel Bahadur Shastri has not yet been conferred the award of Bharat Ratna was conferred on his him in 1966.
- 40. With reference to paragraph 9 of the said affidavit, I deny and dispute, the statement made therein. I state that in wire the technications coll the added Respondent in para 9 are incorrect and are denied.

11. With reference to paragraph 10 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears a therefrom I state that the contention of a the added Respondent in para 10 is incorrect and denied since the Government has already accept—ed the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji Gied in an aircrash at Taiboku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as "posthumous".

I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that as regards an investigative inquiry stated to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

In view of the various documents submitted in the evidence and and considered by the Netaji Inquiry Committee/ & Khosla Commission and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an air- cash on 18th August, 1945, no useful purpose would be served by instituting any fresh inquiry.

- 13. With reference to paragraph 12 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contentions of the added Respondent in para 12 are denied. These are his personal views.
- 14. With reference to paragraph #5 13 of the said affidavit, I deny and dispute, the statement made therein save what are

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matters of record and save what appears therefrom I state that the contentions of added Respondent in para 13 are self explanatory and need no comments as far as publishing a book namely "Last Days of Nataji" and its Subsequent withdrawal from circulation is concerned.

As regards the statement made by the then Prime Minister in the Lek Sabha en 28.8.78 (not en September 3, 1978 as contended in the petition) it is not fully quoted by the petitioner. Shri Merarji Desai also added that "ne useful purpose would be served by having any further inquiry". This last sentence in the statement has been emitted by the added Respondent. As regards the statement attributed to Shri Dhanikal Mandal on 11th April, 1979, it relates to a reply given by him when he was Minister of King State in the Ministry of Home Affairs to Unstarred Question No. 6626 in the Lok Sabba on 11th April . 1979. It was not a suemetu statement made in the Lek Sabha, by Shri Dhaniklal Mandal, as has been made out by the added Respondent, Howev -er, the matter was considered by the Government as lake as in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji and Government had already accepted that Netaji died in an air-crash on 18th August, 1945, at Taibeku, no useful purpose would be served by holding another inquiry. It is therefore, denied that the findings and reports of Netaji Inquiry Committee and Khosla Commission have not been acce -pted by Government. However, as already stated, Government of India has taken a decision not to Proceed any further in the matter of conferment of Bhatat Ratna on Netaji Subhash Chandra Bese. In view of this position, the apprehension of the added Respondent about Government of India

bestswing the award of Bharat Ratna on Netaji is unfounded.

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what are matters of record and save/appears therefrom I the said affidal state that we comments, since the findings of the Netaji Inquiry Committe and the Khosla Commission have already been accepted by the Government Of India. As already stated no record is available in the Ministry of Home Affairs with reference to have been declared by the Government of India headed by Shri Chandrasekhar. The Contention of the added Respondent that the Government of India never accepted the reports and findings of the two Inquiry Commission is not correct.

16. with reference to paragraph 14A of the seid affidavit, I deny and dispute, the statement made there in save what are matters of record and save what appears therefrom I state that Tj the contentions of the added Respondent are not relevant since the Government of India have already accept the findings of the two Commissions that Netaji died ib an air-crash at Taiboku on 18th August, 1945.

affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears there from I state that the contentions of the added Respondent are immaterial in view of the fact that Government have already accepted that Netaji died in an air-crash at Taihoku on 18th August, 1945.

with reference to paragraph 14C, of the said affidavit, I deny and dispute, the statement save made therein save what are matters of record and/what appears there from I state that in view of the acceptance by the Government of the findings of the Netaji Inquiry Committee and the Khosla Commission, The reference to the alleged bad treatement meted out to INA personal in post British India has no relevance to the issue relating ong to conferment of Bharat Ratna on Netaji Subhash Chandra Bose.

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19. With reference to paragraph 16 of the said affidavit. I deny and dispute, the statement made there' in save what are matters of record and save what appears therefrom I state that although the Civil Writ Petition No. 902 of1984 in the Rajasthan High Court and the / delivered i.e. 18th January, 1986, are correct, the Same Judgement date of the judgement 2-/ was delivered by Shri-Shri Justice S.N. Bhargava and not by Hon'ble Shri Justice Kapeer, as stated therein. As regards the direction to the Union of India, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including allt the papers and other materials which the petitioner (Shri Mand Lal Sharma) had claimed that he had at his disposal. The factual position is that is was brought to the notice of Ministry of External Affairs that the petitioner had died. That Ministry informed Shri Talekar, Counsel of the late Petitioner that as the petitioner had passed away before the meeting with the Ministry of External Affairs/Government of India representa -tive, ne further action was calledfor on the part of the Government of India, Since no evidence or document of any

kind was ever produced by Shri Nand Lal Sharma, the eccasion to consider whether or not a fresh enquiry was required, did not arise.

20. With reference to paragraph 17 of the said affidavit, I deny and dispute, the statement made there in save what are matters of record and save what appears therefrom I state that the contention of the added Respondent about conferment of Bharat Ratna on Netaji and not on Mahatma Gandhi is not relevant as decision to confer Bharat Ratna on Netaji was taken keeping in view the sentiments of the Hen'ble Members of the Rajya Sabha during special mention by Shri Pramed Mahajan, M.P. (Rajya Sabha) on 7th August, 1991 and also in recognition of the public service of the highest order of Netaji.

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- 21. With reference to paragraph 10 of the said affidavit, I dony and dispute, the statement made therein the save what are matters of record and save what appears therefrom I state that as regards the added Respondent's with reference to letter dated 22nd July, 1946 of Khurshed Naoroji to Louis Fischer dated 22nd July, 1946, even though there is a reference to Bose, it does not say conclusively that Bose was alive.
- 22. With reference to paragraph 20 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contention of the added Respondent in para 20 calls for an commenta as it has no direct relation with the conferment of award of Bharat Ratna on Netaji.

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23. With reference to paragraph 25 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the Government have accepted the findings of the Netaji Inquiry Committe and the Khasla Commission to the effect the Netaji died in an air-crash on 18th August 1945.

With reference to paragraph 26 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears there from I state that notwithstanding its earlier announcement made on 23rd January, 1992, not to takes any further action in the matter of conferment of Bharat Ratna on Netaji and to treat the same as closed.

25. With reference to paragraph 27 of the said affidavit, I deny and dispute, the statement made made therein save what are matters of record and save what appears therefrom I state that the correct position is indicated as under against each ground:

I & II: No comments since Bharat Ratna is not a title as already explained in reply to paras 2 & 6.

III The contention of the Petitioner is unfounded and is denied.

In view of the position already explained in restponse to paras 10,3% and 25 above, the contents as
covered in this ground are incorrect insofar as
non-acceptance of the reports and findings of Nets
Netwin Inquiry Committee (1956) and Khosla Commission

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(1970) is concerned; that the State has never declared his dead is not correct and that the third Inquiry Commission was not at all ordered by the Prime Minister in 1985 and no such inquiry is pending.

V. In view of the position already stated in para 10 above, the contention of the added Respondent under this ground is incorrect and as such denied.

paragraphs, the contentions of the added Respondentmerit outright rejection. It is prayed accordingly, that the Writ Pelitin is not maintainable and should be rejected.

27. That the Stutements made in paragraphs 100 5 above are true to may knowledge, those made in paragraphs 6 × 25 above are true to may information which I believe to be true.

And the rist are may submissions before this Honble Court.

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MESSAGE CONFIRMATION

NOV-26-'93 FRI 13:56

TERM ID: HOME GOUT OF INDIA

FAX NO: 91 11 3015750

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भारत सरकार GOVERNMENT OF INDIA गृह मंत्रालय MINISTRY OF HOME AFFAIRS



V.P. BHATIA UNDER SECRETARY(PUB.&VIG.) PHONE: 301 2421

New Delhi, the 26th November, 1993

Dear Shri Kundu,

Kindly refer to your d.o. letter No. 15/B/Home/93/736/678 A dated 19th November, 1993, regarding C.O. No. 6720(W)/93 - Bijan Ghosh Vs. Union of India and others.

- A copy of the Affidavit-in-Opposition filed by Shri Bijan Ghosh against the affidavit claiming privilege from production of relevant records filed by Shri N.N. Vohra, Secretary, Ministry of Home Affairs has been gone through carefully. As desired, the parawise comments thereon have been prepared and the same are sent herewith with the request that the affidavit-in-reply may be drafted at your earliest and the same duly settled by Shri R.N. Das, Senior Panel Counsel returned to this Ministry by Fax(Fax No. 011 3015750) or alternatively by speed post so that the same could be filed before the case appears for hearing on 6th December, 1993. Incidentally, I am desired to request you to indicate whether the affidavit-in-opposition filed by the writ petitioner at all needs any formal filing of affidavit-in-reply as it is felt that the same can be countered at the time of arguments. This point may also kindly be clarified.
- As regards the Affidavit-in-Opposition on behalf of Respondent No. 1 i.e. Secretary in the Ministry of Home Affairs in response to affidavit of Shri Sushant Kumar Mitra added Respondent No. 5 which has been sent by you to this Ministry duly settled by Shri R.N. Das vide your letter No. 15/B/Home/93/737/679 A dated 19-11-93, necessary follow-up action is underway and the same will be sent to you along with usual spare copies well in time for filing in the Hon'ble High Court at Calcutta.
- It is requested that the affidavit-in-reply duly settled on the basis of parawise comments sent with this communication may be attended to on Top-priority basis.

With regards,

Revel at 1345 Hrs.
26/11/93

Yours sincerely,

(V.P. BHATIA)

lease send by FAX purth encls C1+4

Shri S.K. Kundu, Central Government Advocate, Ministry of Law & Justice, (Department of Legal Affairs), Branch Secretariat, 4, K.S. Roy Road, Calcutta - 700 001. (Fax No. 033 2485215)

BY SPEED POST

26/11 1B-15/93

Copy along with a copy of the parawise comments also fowarded to Shri R.N. Das, Senior Panel Counsel, Calcutta High Court, 88, Chowrangee Road, Calcutta, with the request that the affidavit in reply may kindly be settled at your earliest convenience and return to the undersigned to enable the same being filed before the Hon'ble High Court at Calcutta well before the date of next hearing i.e. 6th December, 1993. As already stated above, it is for your kind consideration whether any formal affidavit-in-reply is required to be filed with reference to the Affidavit-in-Opposition filed by Shri Bijan Ghosh against the affidavit filed by Home Secretary claiming privilege.

(V.P. BHATIA)
Under Secretary to the Government of India
Phone: 301 2421

PARAWISE COMMENTS IN RESPECT OF AFFIDAVIT-IN-OPPOSITION FILED BY SHRI BIJAN GHOSH:

- Paras 1 to 3: Require no comments.
- Para 4: As already averred in the affidavit-in-opposition in response to the writ petition and supplementary application etc. filed by the petitioner, the contentions now made out in para 4 are without any merit and are denied.
- Para5(a): The contentions of the petitioner are uncalled for as the affidavit has been affirmed properly and in accordance with law.
- Para 5(b) to The contentions of the Petitioner are emphatically (g)

 denied. The order of the Hon'ble Court to produce the relevant records has been considered very carefully. The reasons for withholding permission to produce the records are stated clearly in the affidavit of the Secretary, Ministry of Home Affairs.
- Para 5(h&i): The claim of privilege is in accordance with the provisions of Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India, and has been made after due application of mind.
- Para 5(j) :The contentions of the Petitioner are emphatically denied in view of the position already stated in reply to para 5 (a) to (g).
- Para 6: The contentions of the Petitioner are unfounded and misconceived. The claim of privilege has been made with due regard to the legal and Constitutional provisions. Further, the claim of privilege has been made only after due application of mind and with reference to the contents of the relevant records.
- Para 7: The contentions of the Petitioner are emphatically denied.

- Para 8: No comments are necessary in view of what has already been stated earlier.
- Para 9: The position taken by the Petitioner is wrong and merits outright rejection.
- Para 10: Calls for no comments.
- Para 11: The submission of the Petitioner in para 11 is totally out of place as in para 1 of the said affidavit, a reference has been made to the order of the Hon'ble Court for the production of all the records pertaining to the declaration of the award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose.
- Para 12: The contention of the Petitioner is frivolous.
- Para 13: The contentions of the Petitioner are misconceived.
- Para 14: The allegations of the Petitioner are baseless and incompetent.
- Paras 15%16: The contentions of the Petitioner with reference to para 5 of the affidavit are his own presumptions and are not based on factual knowledge about the relevant records, notes and minutes by officers and Ministers on files, and papers submitted to Cabinet Committee on Political Affairs and its decision thereon.
- Para 17: The contentions of the Petitioner are not based on factual knowledge of the relevant records and their contents, are denied.
- Para 18: The contentions of the Petitioner are entirely misconceived.
- Para 19: The findings of the Netaji Inquiry Committee (1956)
 and of the Khosla Commission as also the statement
 of the former Prime Minister, Shri Morarji Desai
 made in Parliament in the year 1978, were fully
 known to the Government while declaring the award
 of Bharat Ratna 'posthumously' to Netaji Subhas
 Chandra Bose on 23rd January, 1992. The matter

was considered by the Government later in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji, and Government had already accepted that Netaji died in an aircrash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. In view of this position the contentions of the Petitioner are mis-conceived, unfounded and without any basis. It is further denied that the claim of privilege is a myth.

- Para 20: It is true that some Members of Parliament had raised the matter of conferring the award of Bharat Ratna on Netaji Subhas Chandra Bose. However, the process of giving an award is not as simple as that. All related considerations have to be taken into account by Government. The process of decision taking at the highest level has also to be gone through. As regards the claim of privilege with reference to the records relating to the declaration of Bharat Ratna 'posthumously' to Netaji Subhas Chandra Bose, the position has already been stated in response to the Petitioner's contentions in earlier paragraphs.
- Para 21: The matter of production of relevant records has been considered very carefully before claiming privilege under Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India.
- Para 22: The contentions of the Petitioner are frivolous and are denied.
- Para 23: The contentions of the Petitioner are denied inasmuch as the Note for the Cabinet Committee on Political Affairs on the subject of the dispute regarding

the ashes of Netaji Subhas Chandra Bose and also the controversy whether he is dead or alive and the decision of the Cabinet Committee thereon are covered under Article 74(2) of the Constitution of India read with Sections 123 & 124 of the Evidence Act.

- Para 24: In view of the production of the records for perusal by the Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of privilege, the contentions of the Petititioner do not call for any comments.
- Para 25: The contentions of the Petitioner are unfounded and in view of what is already stated above call for no specific comments.
- Para 26: The Hon'ble can peruse the records for satisfying itself about the bonafides and genuineness of the plea of privilege.
- Para 27: Requires no comments.
- 2. In view of the submissions made in the foregoing paragraphs, the contentions of the Petitioner in this affidavit-in-opposition are mis-conceived, unfounded and without any merit and deserve to be rejected outright. It is, therefore, prayed accordingly.

PARAWISE COMMENTS IN RESPECT OF AFFIDAVIT-IN-OPPOSITION FILED BY SHRI BIJAN GHOSH:

Paras 1 to 3: Require no comments.

As already averred the affidavit-in-opposition Para 4 /to the writ petition and supplementary application etc. filed by the petitioner, the contentions " made out in para 4 are without any merit and denied.

The contentions of the petitioner are uncalled affirmed profesly and for as the affidavit has been filed after completing Para 5(a)

for a 5 (b) to (2) Para 5(b) (c) The contentions of the petition, are emphatically

denied as the direction of the Hon'ble Court

the readous to produce relevant records has been examined buildered

very carefully and since the said records

are covered under the 74(2) of the Constitution of India, only after proper satisfaction of / Secretary in the Ministry of Home Affairs, who is Head of the Department and is in control of and also incharge of its records that this privilege

has been claimed by him.

Home Maire Para 5 (c)

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In view of the position stated in response to the contentions of the petitioner in para 5(b) above, no further clarification justification for claiming privilege in the matter of production of records is called for even while claiming privilege from production of records relating to declaration of award of Bharat Ratna posthumously it has been specifically stated that to Netaji Subhas Chandra Bose the said records are being made available to the Hon'ble Court for perusal and for satisfying itself about bonafides and genuineness of the plea of the privilege.

- 2 -

Para 5(a)2(e) In view of the position already explained in 725/2025 to paras 5(b)2(c), the contentions of the Petitioner in paras 5(d)2(e)need no comments.

Para 5(#)3(9) The contention of the Petitioner is his own interpretation as it has been made clear in para 6 of the said affidavit that disclosure of the records would cause injury to public interest and that public interest would suffer thereby:

Para 5 The claim of privilege is in accordance with the provisions of Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India and this claim has been made after due application of mind.

Para 5(j) The contentions of the Petitioner are emphatically denied in view of the position already stated in response to para 5

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Para 6

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In view of the categorical assertion that the decision to claim of her keely made with due regard to be privilege under the legal and Constitutional provisions, has been arrived at after due application of mind and with reference walk to the contents of the records involved; the contention of the petitioner is unfounded and motivated.

Para 7 The contention of the Petitioner that by seeking privilege
by way of filing an affidavit is used as a weapon by the
executive against the judicial process is not correct and
emphatically denied in view of the position stated in para

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Para 8

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This is just a reiteration of the Petitioner's contention about the claim of privilege and call for no further comments since the position has already been explained in response to paras 5 % 6 above.

The position taken by the Petitioner is not correct and merits outright rejection.

Para 10 Calls for no comments.

Para 11 The submission of the Petitioner in para 11 is totally out of place as in para 1 of the said affidavit, a reference has

- 3 -

been made to the order of the Hon'ble Court for the production of all the records pertaining to the declaration of the award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose.

Needs no comments since the deponent is the Secretary to the Government of India in the Ministry of Home Affairs and there is nothing to suggest that the deponent appears to be Secretary to the Government of India, Ministry of Home Affairs.

The contentions of the Petitioner are completely mis-conceived.

The contentions of the Petitioner are completely mis-conceived and call for no comments.

Needs no comments as this is Petitioner's own interpretation about the records in question.

Paras 15&16 With reference to paragraphs 15 & 16 of the affidavit-in-opposition

the contentions of the Petitioner with reference to para 5 of the affidavit are his own presumptions and are not based on his factual knowledge about the relevant records, notes and minutes by officers and Ministers on files and other papers submitted to Cabinet Committee on Political Affairs and its decision thereon.

The contention of the Petitioner in para 17 of the petition are again his personal reiterations without the factual knowledge of the relevant records and their contents and as such the same are denied.

The contention of the Petitioner that by claiming privilege in respect of the records relating to the declaration of Bharat Ratna posthumously to Netaji Subhas Chandra Bose, greatest harm will be done to the process of administration of justice in a case involving grave national issues of public importance, it is respectfully submitted that the fame is unfounded and emphatically denied. The executive has utmost regard for the judiciary and in compliance with its directions, only those records about which the Secretary to the Government of India in the Ministry of Home Affairs is satisfied that their disclosure would cause injury to the public interest and are also covered under the provisions of sections

Para 12
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and meters.

Para 17

Para 18 / Para 18 / Me the petulioned ore outside ded. 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India, privilege has been claimed.

Para 19

With reference to the contents of para 19 of the affidavit in-opposition now filed by the Petitioner, the findings of the Netaji Inquiry Committee (1956) and the Khosla Commission as also the statement of the then Prime Minister, Shri Morarji Desai made in Parliament in the year 1978 have already been taken into account/while declaring the award of Bharat Ratna 'posthumously' to Netaji Subhas Chandra Bose on 23rd January, Much after the so-called statement of Shri Desai in 1978, the matter was considered by the Government as late as in February 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji and Government had already accepted that Netaji died in an aircrash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. In view of this position the contentions of the petitioner are mis-conceived, unfounded and without any basis. It is further denied that the claim of privilege is a myth.

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Para 20

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With reference to the contentions of the Petitioner in para 20 of the affidavit-in-opposition, while It is admitted that there was a popular demand from some members of Parliament this was only one of the many other related considerations for the Government to come to a conclusion for recommending to the Government to come to a conclusion for recommending to the Action of privilege with reference to the records relating to the declaration of Bharat Ratna 'posthumously' to Netaji Subhas Chandra Bose, the position has already been stated in response to the Petitioner's contentions in earlier paragraphs.

had raised his matter of award of authorish Ratura Bose. Howevel we para 21 jour of as That a related with the related which we have to be have to be taken into account to the taken into account the taken into account the taken into account to the taken into account the taken into account to the taken into account the taken into a

The contention of the Petitioner with reference to the records relating to the declaration of Bharat Ratna posthumously to Netaji, there is nothing further to add that the matter relating to relevant records has been considered very carefully before claiming privilege under Sections 123 & 124 of the Evidence

Act read with Article 74(2) of the Constitution of India.

Para 22 With reference to the contentions of the Petitioner in para
22 of the affidavit-in-opposition, the very fact that the

Government of India have decided not to proceed any further

in the matter of conferment of Bharat Ratna to Netaji and to

treat the matter as closed, the same are frivolous and need

no comments. It is further reiterated that the correspondence

between the Ministry of Home Affairs and the wife and daughter

of Netaji Subhas Chandra Bose regarding the said award are

very much covered under the provisions of Sections 123 &

124 of the Evidence Act.

- Para 23 The contentions of the Petitioner in para 23 of the affidavition are denied inasmuch as the Note for the Cabinet Committee on Political Affairs on the subject of the dispute regarding the ashes of Netaji Subhas Chandra Bose and also the controversy whether he is dead or alive and the decision of the Cabinet Committee thereon are covered under Article 74(2) of the Constitution of India read with sections 123 & 124 of the Evidence Act.
- Para 24 In view of the production of the records for perusal by the Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of privilege, the contentions of the Petitioner do not call for any specific comments.
- Para 25 The contentions of the Petitioner in para 25 of the affidavitin apposition are unfounded and in view of the averments in

 Moulthe preceding paragraphs call for no specific comments.

Para 26 The contentions of the Petitioner in para 26 are totally untenable and it has already been submitted by the Respondent that the records in question are being produced for perusal of this Hon'ble Court for satisfying itself about the bonafides and genuineness of the plea of privilege.

- Para 27 Requires no comments.
- 2. In view of the submissions made in the foregoing paragraphs

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the contentions of the Petitioner in this affidavit-in-opposition are misconceived, unfounded and without any merit and deserve to be rejected outright. It is, therefore, prayed accordingly.

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DISTRICT : CALCUTTA

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

(APPELLATE SIDE)

C.O. NO. 6720(W) of 1993

IN THE MATTER OF:

An application under Article 226 of the Constitution of India

IN THE MATTER OF:

DR. SUSANTA KUMAR MITRA

... ADDED RESPONDENT

VERSUS

UNION OF INDIA & ANR.

.. RESPONDENTS

AFFIDAVIT IN OPPOSITION FOR AND ON BEHALF OF RESPONDENT NO. 1.

- I, V.P. Bhatia, son of late Shri M.L. Bhatia aged about 50 years, by occupation, service, working for gain at New Delhi- 110001, do hereby solemnly affirm and say as follows:-
- 1. I am Under Secretary in the Ministry of Home Affairs,
 Government of India and am filing this Affidavit-in-Opposition
 for and on behalf of Respondent No. 1 herein and I am acquainte d
 with the facts and circumstances of the case.
- 2. I have been duly authorised and am competent to make and affirm this affidavit on behalf of the Respondent No.1.
- 3. I have read a copy of the Affidavit of Dr. Susanta Kumar Mitra, Added Respondent, (hereinafter referred to as the said affidavit) and I have understood the contents, meaning and purport thereof.
- 4. That I have been advised to traverse only those allegations and/or statement of paragraphs in the said affidavit what are relevant and material for deciding the main issue of the instant petition. Save and except what are matters of record and save and except what have been specifically admitted herein I deny and





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dispute all allegations and contentions in the remaining paragraphs.

- 5. Save and except what are matters of records and save
 what appears therefrom I deny each and every allegation made
 in the said affidavit and put the deponent to strict proof thereof.
- 6. With reference to paragraph 2 of the said affidavit, I deny and dispute the statements made therein save what are matters of records and save what appears therefrom. I state that the contention of the added Respondent in para 2 of the said Affidavit is not correct and is denied because nothing contained in the Constitution debars the Government from extending recognition to individual acts of outstanding merit by way of 'Orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general. A Press Note was issued by the Government of India on April 17,1968, making it abundantly clear that the use of Civilian awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the scheme of the

Covernment as these awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution which has abolished titles. A copy of the said Press Note is annexed herewith as Annexure-A. It was also emphasised in this Press Note that no civilian award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

- 7. With reference to paragraph 5 of the said affidavit I deny and dispute, the statement made therein save what are matters of records and save what appears therefrom I state that Civilian Awards like Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri are not titles and this position has been clarified in the Press Note dated April 17, 1968, referred to in para 6 above.
- 8. With reference to paragraph 6 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the allegations of the added Respondent are denied. Civilian awards conferred

by the Government of India are not titles.

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- 9. With reference to paragraph 8 of the said affidavit, I deny and dispute, the statements made therein save what are matters of record and save what appears therefrom I state that the contention of the Petitioner about conferment of Bharat Ratna posthumously on Shri Rajiv Gandhi, is denied. It is also denied that Lal Bahadur Shastri has not yet been conferred the award of Bharat Ratna. The award of Bharat Ratna was conferred on him in 1966.
- 10. With reference to paragraph 9 of the said affidavit, I deny and dispute, the statement made therein. I state that the contentions of the added Respondent in para 9 are incorrect and are denied.

With reference to paragraph 10 of the said affidavit, I

- deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contention of the added Respondent in para 10 is incorrect and denied since the Government has already accepted the findings of both the Netaji Iradiry Committee and the Khosla Commission to the effect that Netal died in an aircrash at Taihoku on 18th August, 1945. It was accordingly that in the President's announcement on 23rd January, 1992, the award was regarded as "posthumous".
 - 12. With reference to paragraph 11 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that as regards an investigative inquiry stated to have been ordered by the then Prime Minister, Shri Chandrasekhar, no records are available in this Ministry.

In view of the various documents submitted in the evidence and considered by the Netaji Inquiry Committee/ Khosla Commission and in the absence of any specific clue to the contrary and Government having already accepted the conclusion that Netaji died in an aircrash on 18th August, 1945, no useful purpose would be served

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by instituting any fresh inquiry.

13. With reference to paragraph 12 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contentions of the added Respondent in para 12 are denied. These are his per onal views.

14. With reference to paragraph 13 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contentions of added Respondent in para 13 are self explanatory and need no comments as far as publishing a book namely "Last Days of Netaji" and its subsequent withdrawal from circulation is concerned.

As regards the statement made by the then Prime Minister in the

Lok Sabha on 28.8.78 (not on September 3, 1978 as contended in the petition) it is not fully quoted by the petitioner. Shri Morarji Desai also added that "no useful purpose would be served by having my further inquiry". This last sentence in the statement has been tted by the added Respondent. As regards the statement attributed Shri Dhaniklal Mandal on 11th April, 1979, it relates to a reply even by him when he was Minister of State in the Ministry of Home Affairs to Unstarred Question No.6626 in the Lok Sabha on 11th April, 1979. It was not a suo motu statement made in the Lok Sabha, by Shri Dhaniklal Mandal, as has been made out by However, the matter was considered by the added Respondent. the Government as late as in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji and Government had already acceepted that Netaji died in an air-crash on 18th August, 1945, at Taihoku, no useful purpose would be served by holding another inquiry. It is, therefore, denied that the findings and reports of Netaji Inquiry Committee and Khosla Commission have not been accepted by Government. However, as already stated, Government of India has taken a decision not to proceed any further in the matter of conferment of Bharat Ratna on Netaji Subhas Chandra Bose. In view of this position,

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the apprehension of the added Respondent about Government of India bestowing the award of Bharat Ratna on Netaji is unfounded.

15. With reference to paragraph 14 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that it needs no comments, since the findings of the Netaji Inquiry Committee and the Khosla Commission have already been accepted by the Government of India. As already stated no record is available in the Ministry of Home Affairs with reference to the investigative inquiry alleged to have been declared by the Government of India headed by Shri Chandrasekhar. The contention of the added Respondent that the Government of India never accepted the reports and findings of the two Inquiry Commissions is not correct.

I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contentions of the added Respondent are not relevant since the contentions of India have already accepted the findings of the two

Commissions that Netaji died in an air-crash at Taihoku on 18th

With reference to paragraph 14B of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contentions of the added Respondent are immaterial in view of the fact that Government have already accepted that Netaji died in an air-crash at Taihoku on 18th August, 1945.

18. With reference to paragraph 14C,D & E of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that in view of the acceptance by the Government of the findings of the Netaji Inquiry Committee and the Khosla Commission, the reference to the alleged bad treatment meted out to INA personnel in post British India has no relevance to the issue relating to conferment of Bharat

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Ratna on Netaji Subhas Chandra Bose.

With reference to paragraph 16 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that although the Civil Writ Petition No.902 of 1984 in the Rajasthan High Court and the date of the judgement delivered i.e. 18th January, 1986, are correct, the same was delivered by Shri Justice S.N. Bhargava and not by Hon'ble Shri Justice Kapoor, as stated therein. As regards the direction to the Union of India, the Ministry of External Affairs were required to look into the matter once again and examine all the available evidence including all the papers and other materials which the Petitioner (Shri Nand Lal Sharma) had claimed that he had at his disposal. The factual position is that it was brought to the notice of Ministry of External Affairs that the Petitioner had died. That Ministry informed Shri Talekar, Counsel of the late Petitioner that as the petitioner had passed away before the meeting with the Ministry of External Affairs/Government of India

the Government of India. Since no evidence or document of any kind was ever produced by Shri Nand Lal Sharma, the occasion to consider whether or not a fresh enquiry was required, did not arise.

20. With reference to paragraph 17 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contention of the added Respondent about conferment of Bharat Ratna on Netaji and not on Mahatma Gandhi is not relevant as decision to confer Bharat Ratna on Netaji was taken keeping in view the sentiments of the Hon'ble Members of the Rajya Sabha during special mention by Shri Pramod Mahajan, M.P. (Rajya Sabha) on 7th August, 1991 and also in recognition of the public service of the highest order of Netaji.

21. With reference to paragraph 19 of the said affidavit, I

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deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that as regards the added Respondent's contention with reference to letter dated 22nd July, 1946 of Khurshed Naoroji to Louis Fischer dated 22nd July, 1946, even though there is a reference to Bose, it does not say conclusively that Bose was alive.

22. With reference to paragraph 20 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the contention of the added Respondent in para 20 calls for no comments as it has no direct relation with the conferment of award of Bharat Ratna on Netaji.

23. With reference to paragraph 25 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the Government have accepted the findings of the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an air-crash on 18th August, 1945.

- 24. With reference to paragraph 26 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that notwithstanding its earlier announcement made on 23rd January, 1992, the Government have decided not to take any further action in the matter of conferment of Bharat Ratna on Netaji and to treat the same as closed.
- 25. With reference to paragraph 27 of the said affidavit, I deny and dispute, the statement made therein save what are matters of record and save what appears therefrom I state that the correct position is indicated as under against each ground:-
- I & II: No comments since Bharat Ratna is not a title as already explained in reply to paras 2 & 6.
- III The contention of the Petitioner is unfounded and is denied.
- IV. In view of the position already explained in response to paras 10 and 25 above, the contents covered in this ground

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are incorrect insofar as non-acceptance of the reports and findings of Netaji Inquiry Committee (1956) and Khosla Commission (1970) is concerned; that the State has never declared him dead is not correct and that the third Inquiry Commission was not at all ordered by the Prime Minister in 1985 and no such inquiry is pending.

- V. In view of the position already stated in para 10 above, the contention of the added Respondent under this ground is incorrect and as such denied.
- 26. In view of the position explained in foregoing paragraphs, the contentions of the added Respondent merit outright rejection.

is prayed accordingly, that the Writ Petition is not maintainable and should be rejected.

That the Statements made in paragraphs 1 to 5 above are true to my knowledge, those made in paragraphs 6 to 25 above are true to my information which I believe to be true and the rest are my submissions before this Hon'ble Court.

DEPONENT

VERIFICATION:

I, the above named deponent, do hereby verify the contents of the above affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 3rd December, 1993.

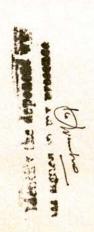
DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 3~4 day of December, 1993 at my office at

Was decirred on solemn affirmation before me which has been read over to the deponent who has admitted is as content.

Notary, DELMI

- 3 DEC 1993



GOVERNMENT OF INDIA PRESS INFORMATION BUREAU

PRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968.

(Article 18 of the Constitution of India says:

(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State...").



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LAW CENTRAL

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5. K. KUNDU CENTRAL GOVI: ADVOCATE

Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta. 4, K.S.Roy Road, Calcutta - 1

15/B/Home/93

761A Dated 9th December, 1993

Shri L.B. Sinate, Director (O&M/VIG) Ministry of Home Affairs, North Block, New Delhi 110001

FAX ND-C11 3015750

Dear Sir,

C.O.No. 6720(w)/93 Bijan Ghosh Union of India & Anr.

please find enclosed herewith the merox copy of the plain copy of the order dated 6th December, 1993 passed in the above mentioned case. Please note that a draft Affidavit-in-reply has been forwarded by SPEED POST by a forwarding letter de 2nd December. 1993: Please also note that we have not received any other copy of supplementary arrigavit filed by any other person except those which have been forwarded to you already. to you already.

Encl: xerox copy of the plain copy of the erder dt.A.17.937

Yours faithfully,

Red tolay at hoalis

T1:30 \$285215

December 5, 1993

In re : Bijen Ghosh

Mr. Bijen Ghesh ... Petitiener (In person)

Mr. Altaf Ahmed Mr. R. N. Des Mr. Susanta Kundu

Mr. P. Parameswaran .. for Union of India

Mr. Amiya Nath Bese .. Hespendent ne. m - 3 (In persen)

Mr. Partha bengap... Mr. Arunava Ghesh ...

.. fer Respendent

Mr. Nigam Chakraberty Miss Arundhuti Mukherjee.. for Respondent no.5

Prof. Samar Guha .. In person

Mr. Bijon Chesh, petitioner appearing in person files an application for amendment upon notice to the other side. Mr. Cltaf Ahmed, Learned Additional Solicitor General of India submits on behalf of Union of India that the application for amendment filed by the petitioner may be allowed by the Court subject to the objection that may be taken at the time of final hearing.

amendment incorporating fresh prayers is allowed subject to the objection that may be taken at the time.

inxinxinxinxxamxxamixinxxmaixexxxinxxxampicanian Union of India will file the counter-affidavit dealing with the allegations made in the amended petition by 8.1.94, reply to such counter-affidavit if there be any, to be filed by 18.1.94.

Let this matter appear in the list as part-heard matter for mearing on 19.1.94 at 12 meon.

It is submitted by Mr. Altaf Ahmed, Learned Additional Solicitor General of India that there is

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no notification with regard to the Khosla Commission's recommendation and as such, the said notification cannot be produced in Court. It is further submitted by him that no notification with regard to conferring 'Sharat Ratha' to Notaji Subhas Chandra Bose was issued Therefore, the said notification associated before the Court. Copy of the Press communique issued by the Rashtrapati Shaban have already been supplied to the parties. Mr. Ahmed, learned Additional Solicitor General also submits that the decision to confer 'Sharat Ratha' to Notaji posthumewaly as appearing from the Press communique new stands classed.

directed to produce the decision taken as to how the passe has been closed. Lat necessary files be produced by the Union of India before the court on the mast date of hearing 1.e. 19.1.94, subject to claim of privilege already made by the respendents. Unless of India will also disclose by placing relevant received as to what led the Government to review its own decision and to take a fresh decision if there be any

Supplementary affidavits and all ether affidavits filed in Court today be kept with the record.

Let a plain copy of this ender duly countersigned by the Assistant Registrar (Geurt) be handed ever to the learned Advacates for the parties on their usual undertakings to apply for and obtain certified copy of the same.

(Shyamal Kumar San, J.)

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High Court directive on Netaji

By Our Legal Reporter

R Justice Shyamal Kumar. Sen of Calcutta High Court on Monday directed the Central, Government to produce relevant records and disclose what had led it to review its own decision to confer Bharat Ratna on Netaji Subhas, Chandra Bose and to treat the matter as "closed".

Netaji's nephew, Mr Amiya Nath Bose, prayed for an order directing the Central Government to request the Speaker of the Lok Sabha to set up a Joint Parliamentary Committee to inquire and find out what had happened to Netaji after July, 1946. Such a committee would be the most suitable body to ascertain where, when and in what circumstances Netaji died, if in fact, he was dead. The people of India had a right to know it.

In a supplementary affidavit Mr Bose stated that Pandit Nehru had written to him saying: "I agree with you that something should be done to finalize the question of Netaji's death".

In November, 1949, Mr Bose said, "We started hearing over the radio in Calcutta the announcement: Netaji Subhas Chandra Bose will soon speak to the Indian people". The above broadcast was being beamed from China. However, no such speech of Netaji was heard.

In 1969 there was a strong demand by a large number of members of Parliament that a fresh inquiry should be made to find out in what circumstances Netaji had disappeared. Some time later Mrs Indira Gandhi appointed Justice G. D. Khosla sole member of a Commission of Inquiry, "I humbly submit that the object of Justice Khosla was not to ascertain the truth about Netaji's disappearance but to defame and dishonour him, possibly under the directions of the then Central Government". So no reliance should be placed by this court on his finding, Mr Bose remarked.

Appearing for the Union of India Mr Altaf Ahmed, Additional Solicitor-General of India submitted that the decision to confer Bharat Ratna posthumously on Netaji had been taken keeping in view his relentless struggle and contribution to the cause of freedom. However, keeping in view the widespread public reaction and sentiments of the people and to avoid any unnecessary controversy the Government had decided, notwithstanding its earlier announcement, not to take any further action in the matter and to treat the matter as closed. "We have retraced our step", Mr Ahmed remarked.

Mr Samar Guha, a former M.P., whose loyalty to Netaji is well known, was allowed to be added as a party to this case. Appearing in person Mr Guha stated that the late Phani Bhusan Chakravarty, who was then Chief Justice of Calcutta High Court, had asked Lord Atlee why they had decided to quit India. "Because of Subhas Chandra Bose and his activities", replied Lord Atlee. Loyalty of the British Indian Army to the British Government had been undermined, he added. Mr Guha suggested that as the Central Government failed to

give "an iota of positive proof" of Netaji's death there should be a thorough investigation of Netaji's disappearance and his activities in foreign countries.

Justice Sen directed the Union of India to file its affidavit dealing with the allegations made in the amendment petition by January 8. The affidavit in reply should be filed by January 18. The matter will come up for hearing on January 19.

The court directed the Additional Solicitor-General to produce the records relating to the decision to treat its earlier decision on conferment of Bharat-Ratna on Netaji as closed.

The Additional Solicitor-General appeared with Mr R. N. Das, Mr Parameswaram and Mr S. K. Kundu. Mr Bijon Ghosh, the writ petitioner appeared in person. Mr Nigam Chakravorty, Miss Arundhuti Mukherjee, Mr Partha Sengupta and Mr Arunava Ghosh appeared for some added parties.

50 fish stalls at Howrah market gutted

FROM OUR CORRESPONDENT

Howe, Dec. 6: Nearly 50 fish stalls and some makeshift hotels were razed in a devastating fire which broke out in the Howrah Fish Market early this morning.

Eleven fire tenders from Howrah, Shibpur, Liluah, Rishra, Uttarpara, Arif Nagar, Central Avenue and Free School Street rushed to the spot. The fire, which broke out at 1.40 am, was brought under control more than three hours later, fire brigade sources said. The cause of the fire is yet to be ascertained.

The market, situated near the Howrah Station, is the largest fish market in eastern India. This is the second such fire in the market in recent years as a similar fire broke out in December 1985, claiming 11 lives.

Sadhan Mondal, a stall owner, said the fire was first noticed in the western side of the market. The fire station was informed immediately and stall owners began rescue operations.

The sources said the fire spread within minutes as the stalls were mainly made of hay and bamboo. Due to lack of water, fire tenders were forced to draw water from Wellington Square, some distance away.

Ashok Kumar Shaw, another stall owner, said the fire tenders came to the scene much after stall owners had begun rescue operations.

Even hours after the fire was put out, heaps of charred fish, baskets, gunny bags and other material lay scattered. Traders were seen trying to salvage some remaints from the ashes.

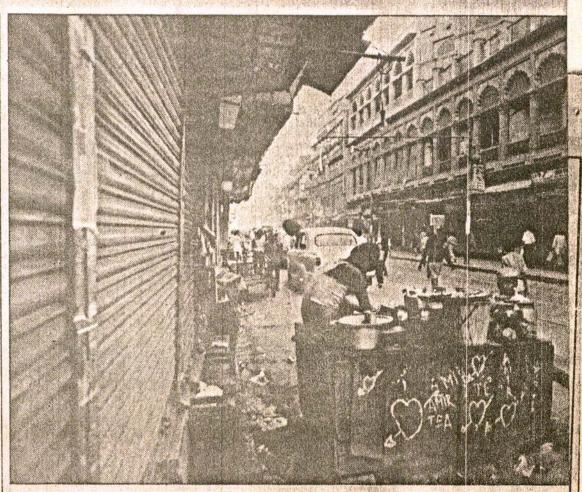
The traders said the Howrah Improvement Trust authorities had rented out the land to the fish traders on a monthly charge of Rs 2.50 per square feet. They said the trust officials had assured them of a permanent market in the area after the 1985 fire.

But the traders alleged this was not done and complained that the trust officials had not even appointed a nightwatchman in the fish market.

The traders said they would request the district administration to help them run the business.

Netaji death

Justice Shyamal Sen of Calcutta High Court on Monday directed the Union of India to file certain documents in connection with a writ petition over Netaji Subhas Chandra Basu's death.



Shops shut in minority-dominated pockets of central Calcutta on Monday to mark the demolitic year ago. A Telegraph picture by Aloke Mitra

Stray black flags in city mark Babri demolition

BY A STAFF REPORTER

Calcutta, Dec. 6: Apart from a few black flags hanging from stray lamp-posts and places of worship, the day passed off peacefully in Calcutta and the districts of West Bengal a year after the demolition of the Babri Masiid.

Bomb blasts on trains in different parts of the country made the city and state police sound a general alert. Special precautionary measures were taken in the major railway stations, including those at Howrah and Sealdah. Pickets were strengthened at the Metro stations.

Intelligence personnel said from preliminary reports on the blasts, it appeared the explosion on the Howrah-bound Rajdhani Express was set off by an unidentified antisocial who disembarked at one of the stations in Uttar Pradesh. "It does not fall within our jurisdiction," he said.

Mr Sultan Singh, DIG Railways, today personally conduct-

ed search operations in the compartments of some long-distance trains at Howrah station. Mr Singh along with government railway police personnel examined the damaged compartment of the Rajdhani Express after it reached behind schedule at Howrah Station today.

Two railway staff were injured in the explosion after the train left Allahabad station early this morning. Both were admitted to hospital. A sniffer dog of the railway police was put into service. Daily commuters were also alert-

US consul general

Calcutta, Dec. 6: (PTI): Mr Robert K. Borgs has replaced Ms Nancy Powell as the American consul general in Calcutta, according to a press release issued by the United States Information Service today.

Ms Powell has been assigned the post of political counsellor with the American embassy in New Delhi, the release added.

ed over the public address system.

Mr D.N. Biswas, the deput commissioner, headquarters said a number of plainclothesm en were sent to all the Metro sta tions. Bomb squad personne were also assigned duties it these stations. A sniffer dog towas pressed into service. Two slaughter houses it

Two slaughter houses to Tangra and Metiabruz remained closed today as the employees including the butchers owing allegiance to Jamar-ul-Kuresh struck work in protested agains the demolition.

At some places like Rajabazai Garden Reach and Kidderpore black flags were hung from street lamp-posts, houses an some places of worship.

some places of worship.

Although no untoward iscident was reported, police some cessaid similar vigil would continue at least for the next two days. The DIG (headquarters) to be newsmen at Writers' Building that the day passed off without single incident in the districts of the state.

NTRODUCINC

No.1/27/91-Public Government of India/Bharat Sarkar Ministry of Home Affairs/Grih Mantralaya

153 -

* * *

New Delhi, the 10.12.1993.

Subject:

C.O. No. 6720(w)/93

Bijan Ghosh

-Vs-

Union on India & Anr.

The above mentioned case came up for hearing on 6.12.1993, when Shri Altaf Ahmed, Additional Solicitor General of India was present at High Court in Calcutta to represent the Union of India. He desired that a copy of the Order dated 6.12.1993, may be made available to him urgently. The same has been obtained from Shri S.K. Kundu, Central Government Advocate at Calcutta through FAX, and a copy thereof is enclosed for perusal of Hon'ble Additional Solicitor General of India, Shri Altaf Ahmed.

It's requested that these papers may be submitted to him expeditiously.

(V.P. BHATIA)
Under Secretary to the Government of India
Tel. No. 301 2421.

To

Shri K.K. Mehta,
PS to Shri Altaf Ahmed,
Upstairs of Canteen,
Main Building,
Supreme Court,
Bhagwan Dass Road,
New Delhi.



S. K. KUNDU CENTRAL GOVT. ADVOCATE

SPEED POST

Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta 4, K.S. Roy Road, Calcutta - 1

Ministry of the staffairs

at feed/New Delai.

15/B/Home/93 /738 7-04A. Dated 26.11.93.

2508/99/11/1C 2/12/93

on leasely 3911 Shri V.P.Bhatia, Under Secretary (Pub.& Vig.) Ministry of Home Affairs, North Block, New Delhi - 110001

Dear sir,

C. R. No. 6720(w)/93 Bijan Ghosh

-VS-UOI & Ors.

Mile I hope, by this time, you have received a copy of the Affidavit-in-opposition filed in the above mentioned case by Shri Bijan Ghosh, Advocate to the application claiming privilege and the draft Affidavit-in-opposition.

We have further received a supplementary affidavit filed on behalf of the respondent No.5, Dr.Sushanta Kumar Mitra, a copy of the amended writ petition filed by Shri Bijan Ghosh, Advocate, and an application filed by Shri Samar Guha, Ex M.P.

I am forwarding herewith copies of the above mentioned three petitions for your comments at an early date. Please do the needful and oblige.

Encl: Copies of the above mentioned supplementary affidavit, amended writ petition.and copy of the petition as menti

Yours faithfully,



From : Arrandhati Mukherjee4dvocate Bar Association Room No. 11,

Phones: 248 5579/3190

Residence:

Dated : 23rd Nov. 93.

Mr. S. Kumdu, Sr. Central Govt. Advocate, 4, K.S. Roy Road, Calcutta - 1.

In Re : C.O. 6720(W)/1993 Bijan Ghosh -Vs -Union of India and Ors.

Dear Sir,

Dy 5967/23/x1/13-11

Enclosed, please find a copy of the supplementary affidavit alongwith all annexures in persue ance to the order passed by the Hon'ble Mr. Justice Shyamal Kumar Sen on 22 September, 1993 Thank you.

. Kisumo del perility,

Yours faithfully,

Arundhati Mukhøjel Ad vocati

DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPRILLATE SIDE

In the Matter of : C.O.No. 6720 (wg of 1993;

-And-

In the Matter of:
An application under Article 226 of the Constitution of India;

-And-

In the Matter of :

BIJAN GHOSH

PETITIONER

-Versus-

Union of India and Others ... RESPONDENTS

SUPPLEMENTARY AFFIDAVIT OF ADDED RESPONDENT NO.5 NAMELY DR. SUSANTA KULAR MILRA

I, Dr.Susanta Kumar Mitra, son of late Nilmony Mitra, aged about 52 years, residing at 25-A, Bagbazar Street, Calcutta-700006, by occupation Investigative Journalist and Social worker, do hereby solemnly affirm and say as follows:-

I am the added respondent No.5 in the above-mentioned writ application and the proceedings relating the reto, and am well acquainted with the facts and circumstances of the case, in which I have filed an affidavit affirmed on the 2nd July 1903 with the leave of this Hon'ble Court.

- No affidavit-in-Opposition has been filed by the contesting respondents to my above-mentioned affidavit and in any event I have not been served with any copy of such affidavit-in-opposition, whereas such affidavit-in-opposition appears to have been filed by the contesting respondents to the writ application as well as the affidavit filed by another added respondent namely Shri Sunil Gupta.
- the notice of this Hon'ble Court certain further relevant facts, which have come to light, and, which are considered necessary to be placed on record particularly in the context of the stand taken by the Government of India in their affidavit-in-opposition to the writ application and other connected pleadings as well as in the affidavit-of the Secretary to the Ministry of Home Affairs, claiming privilege in respect of certain vital documents and records necessary to be produced before this Hon'ble Court for a proper adjudication of the points of controversy involved in this public interest litigation.
- 4. It appears from the memorandum dated the 2nd September 1974 and the office memorandum dated the 2nd September 1974 of the Ministry of Home Affairs, Government of India that copies of the following documents were forwarded to the Lok Sabha and Rajya Sabha Secretariat respectively for being laid down on the table of the said two Houses of the Parliement:
 - (i) Copies id English and Hindi including one authenticated copy of each of the Report of the one man Commission to inquire into the disappearance of Netaji Subhas Chandra Bose.
 - (ii) Copies of the Memorandum of the action taken on the report

 (in Hindi and in English) in accordance with the provisions
 of Section 3(4) of the Commissions of Inquiry Act.

It also appears from the above memorandum of action taken on the report of the said Commission that the Government of India by a notification dated the 11th July 1970 appointed Shri G.D.Khosla, retired Chief Justice of the Pubjab High Court under the Commissions of Inquiry Act to enquire into the facts and circumstances relating to the disappearance of Netaji Subhas Chandr, Bose in 1945 and the subsequent development connected therewith and that the said Commission completed the inquiry and submitted its report on June 30. 1974. It also appears from the said Memorandum that the Government examined the report and decided to accept the findings of the Commission that Netaji died in an air-crash on the 18th August, 1945 et Teiboku air field in Taiwan and the said report was being placed before the House as required under Sub-Section (4) of Section 3 of the Commission of Inquiry Act 1952. Copies of the above three documents supplied by the respondents are annexed hereto and marked collectively with the letter "A".

The respondents have not disclosed what happened after the receipt of the above documents by the Secretariats of Lok Sabha and Rajya Sabha respectively. But it appears from Chapter II of the third ediction of the book of Professor Samar Guha entitled "NETAJI -DEAD OR ALIVE" that when the report of the Khosla Commission was placed on the table of Lok Sabha, it was found that in the descriptive part of the report Mr. Khosla vulgarly tried to denigrate Netaji, in no less than 27 places, by describing him as 'quisling', 'stoogs' or 'puppet' of the Japanese, which outrageously violated the sentiment of the Indian people about their legendary National hero. The author of the said book, who was then a Member of Lok Sabha, decided not to sit silent like a nincompoop on the occasion and with a copy of the Report of the Khosla Commission in hand, stood up and tore it to pieces, and then, threw it on the floor of the House before the Prime Minister Mrs. Indira Gandhi. The incident shakened the House quite embarassingly, but neither the Speaker nor the Prime Minister raised any objection against this overt act of the author and none dared to ask for any disciplinary action against him. According to the

author a descernable feeling of appreciation was seen to gleam through the eyes of the members sitting on both sides of the House.

6. The author further described after narrating the above incident in the said book as to what happened thereafter in the following words:-

"Move For Rejection of Khosla Report

After recording the protest in the Parliament, the author resumed fresh agitation inside the House and outside it for rejection of Knosla Report. Public statements were made but the main forum was the Parliament to fight it effectively there. The author tabled two motions in the Parliament - one denouncing Khosla's reprehensible remarks about Netaji and the other for a full debate on the Report of the Khosla Commission. Opportunity came to move the first resolution in Lok Sabha during its budget session in 11975. Citing innumerable facts and documents, rather in an impassioned speech, the mover recalled how the Japanese revolutionary of Asia, - how the deading personalities of all other East Asian Countries looked upon him as their source of inspiration and how all the Indian leaders of different indentities, except Pandit Nehru, showered their glowing tributes ton him. All the members of Lok Sabha, cutting accross party barriers, joined the author in unanimously decrying the slanderous remarks of Khosla against that Man of Destiny of India, whose patriotic and spiritual magnificience excelled all imaginations. At one time, the mood of the House was seen to burst into screeching m ger when Mrs. Indira Gandhi had to rush to the House to intervene in the debate and say that the Government did not accept Khosla's personal views about Netali or the full text of his report - the Government accepted only its findings. The motion was discussed for two days, but before the author got the opportunity to reply

in defence of his resolution, Emergency was promulgated and the author was clamped inside a Haryana Jail. The unfinished debate on the resolution came before the Parliament during the Emergency and in the absence of the imprisoned mover, the 'captive' House disposed it without further discussion".

While I will crave reference to the narration of the subsequent events after the mood of the Parliament changed perceptibly after 1977 election, as recorded at pages 284 to 315 of the said book, I saybthat it appears therefrom that Professor Samar Guha moved a fresh resolution in the new Lok Sabha for discussion of the report of the Khosla Commission and the debate began on 3rd August 1977. According to Professor Samar Guha the then Prime Minister made the following statement at the conclusion of the debate on the 3rd Saptember 1978:-

"The Prime Minister (Shri Morarji Desai): Mr.Chairman, Sir, I may differ sometimes from my hon. friend, Mr.Samar Guha, but I can never doubt, even in my sleep, his sincerity. I have great admiration for the dedication with which he is pursuing this cause and yet we have to be realistic in this matter.

There have been two inquiries into the report of the death of Netaji Subhas Chandra Bose in the air crash on 18th August 1945 at Tainoku air field during his air-journey to Manchuria, one by a Committee presided over by Maj.General Shah Nawaz Khan and the second by a one man Committee of Inquiry headed by Shri G.D.Khosla, a retired Judge of the Punjab High Court. The majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two reports and various important contradictions in the testimony of witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those

doubts and contradictions and those records. Government find it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by naving any further inquiry. I hope that in the light of this statement, my hon. friend will withdraw his motion" (emphasis supplied).

The respondents in their affidavits-in-opposition to the writ petition, supplementary affidavit and interlocutory application of the writ petitioner do not dispute such a statement having been made by the then Prime Minister on the floor of the House except that according to the deponent of the said affidavits, the above statement was made in the Lok Sabha on 28th August 1978.

8. I will crave reference to the speech delivered by Professor Samar Guna in the Lok Sabha after the above statement of the Prime Minister as recorded at pages 310 to 314 of the said book, as set out hereunder:-

"Prof.Samar Guha (Contai): Sir, To-day is a great day for the whole Indian people, because a mortal sin, a treacherous crime that was committed against the eight hero of Indian freedom has been undone. If I say that Netaji was given burial, out of political conspiracy, it would not be an exaggeration. There was not an iota of doubt that the plane crash was nothing but fake, and there was also not an iota of doubt that themlieged plane crash did not involve Netaji at all.

I contratulate the Prime Minister, the Government as well, on behalf of the Indian people, for the very bold and courageous step taken and the decision that they have announced to-day. It is not an easy matter to undo the findings of the two Inquiries.

I also congratulate the representatives of all the parties in this House, all of whom, ab ut 25 of them who spoke in this House on earlier occasions on this resolution and who lent their unanimous support to the demand to undo the Khosla Commission's Report.

I would also remind this House that earlier about 400 members of both the Houses, this House and the other House, had, in apjoint memorandum, urged upon the Government for a fresh inquiry on the disappearance of Netaji on the basis of which the Khosia Commission was sat up. It is a matter of extreme regret that it required three decades for cur mation to undog - what I would say, - the rischief that was done againstithe revolutionary pilgrim of India. Would there have been the freedom, as you call it, would the British imperialists have quitted India so precipitiously after their victory in the last War if there had not been a fatal blow by Netati Subhas Chandra Bose? A talk with Mr. Attlee has been quoted by Dr. R.C. Mazumder in his book : "History of Indian Independence", Mr. Attlee was asked, - "Why did you quit India so precipitiously? E. Mr. Attlee promptly replied, "Because of the activities of Subhas Chandra Bose".

It is now the fact of history that Mahatma Gandhi prepared the background of Indian freedom and it is Netaji Subhas Chandra Bose who achieved it. But not this freedom as you find it to-day, - it is not the freedom of the dream either of Mahatma Gandhi or Netaji Subhas Chandra Bose.

To-day, I cannot but express my gratitude to the prime Minister because to-day ends a crusade that in an humble way I was trying to conduct on behalf of the people of India at least to see that officially and legally Netaji is not declared dead. Now, by undoing the findings of the Two Reports, at least this much we have achieved that, - to-day Netaji is neither legally nor officially dead.

What happened to him then? Whether there will be a useful purpose served by having a fresh inquiry or not - is a question which! I will answer later.

But I want to draw the attention of the Prime Minister to the fact that what has been done by this Government has been done by Khosla himself. He himself repudiated his own findings in a recent case in Calcutta. Just after the publication of this Report, Mr. Khosla published a book called "The Last Days of Netaji". This is nothing but almost a verbatim reproduction of the Commission's Report, having just some editing and linking up here and there. At least in 27-places he described Netaji as a puppet of Japan, a tool be Tapan, a quisling, and and what not. Why did he dogeo? It was because he found that the testimony of the witnesses - Japanese or otherwise would not justify his findings that Netaji really died in the plane crash. Therefore, he had to build up some political thesis and he did it without having any kind of evidentiary support. Not witness anywhere mentioned that Netali acted or subjected himself to act as a puppet or a quisling of Japan - not a single witness even faintly hinted so. Yet he mentioned this 27 times in his report only to give justification to his findings. His political thesis was that to the man whom Japan considered as nothing but a puppet and quisling, they could not give any protection, endangering their own national interest as against the wrath of the Anglo-American powers under whose occupancy they were after the war.

The family members of Netaji filed a defamation case against Khosla -against his Report and against his book also - and he had to tender an unconditional apology. I want to seep it on record in this House what he baid

while making his unconditional apology, before a Calcutta Court, He said:

"I......do hereby tender my apqualified apology before a Calcutta Court, he haid.

"I.....do hereby tender my qualified apoligy to the complaint. Shri Dwigsendra Nath Bose and other mebers of the family of Netaji and to our countrymen, who have felt hurt and aggrieved owning to the impugned passages inthe said book concerning one of the greatest sons of India and his nephews. I would also express for myself that I sincerely share in common with my countrymen the deepest regard for Netaji who is regarded as the KYHKWAYK Liberator of Motherland and was christended by no less a person than Manatma Gandhi, the Pather of the Nation as. "THE PATRICT OF PATRIOTS - THE PRINCE OF AATRICTS" as one of the greatest sons of India, I am prepared to make due and adequate amends to have the case compounded according to law and also undertake to have the apology, herein contained, published fully and adequately through advertisement inserted in leading newspapers in Calcutta, Delhi, Bombay and Madras and other State capitals of India as also in newspapers of countries where the said impugned publication has been circulated, to freeze stocks of the impugned book left with me, my publishers and their ngents and not to sell orreprint the same and also to supply, copies of the apology to the leading booksellers, where the book has been displayed for sale, requesting them to have up in public view.

I hope and trust this apology will be accepted and the case will be compounded according to Law".

So Khosla has repudiated it himself and so did the Publisher. So
I do not want to read out it in full. It is almost in
the same language. I will quote only q few words

of they publisher :

"We confess that we were not awars of the offending contents and the implications thereof as we were only executing orders placed with us for the performance of our professional job as printers and publishers. If we were awars of such contents, which traduced the honour of one of the greatest sons of India, we would certainly not have been a party to the printing and published of the impugned book in respect of which we have inadvertently become involved in our aforesail capacity. We hereby make due and adequate amends for our sail inadvertent lapses by tendering our unqualified apology to the complainants, Shri Dwijendra Bath Bose, and other members of the family of Fernji and also to our countymen for this publication.

I had the indulgence of this House, where last time, I made an one-hourd and forty-five-minutes so ech marshalling all facts why I begieved that the plane crash was nothing but mism fake. ButI felt that I could not fully convince this House. Afterny that, on the basis of some notes jotted down in the jail, very hurriedly I published this book, "Netaji : Dead or Alive?" Fortunately, I have the cuttings of almost all the leading papers of the country. leading papers that are brought out from various metropolitan cities have unanimously commented in their reviews, that this book has conclusively proved that Netaji did not die in the air crash. I know many other things, but I have not mentioned in the book anything that was not found in the documents that were produced before the Shah Nawaz Khan Committee or the Khosla Commission or in the documents that were later published in the British papers and the secret papers that have been recently published. All the newspapers have

commented unanimously that it has been conclusively proved that Netajl did not die in the air crash.

If Netaji did not die in the aircrash, then what happened to him? It is our morel duty to find out what happened to him.

I believe Netaji is alive. I also believe that the time is not very far off when the country will also know positively that Netaji is alive. I know, when he reappears there will be some kind of a political earthquake in this country. Today I pray to God with the whole nation that Netaji may be in good health and we may get back the greatest revolutionary pilgrim of our country, the epic hero of Indian freedom, the greatest patriot of our country, the Notaji of the Indian people, back in our midst so that he may lead the destiny of our people to their charished goal. I again pray to God along with all of you so that Netaji keeps well and we got him back in our midst as early as possible.

Sir, again I thank the Prime Minister, the Government and friends for lending all kinds of support in undoing the mortal sin and the crime that was committed against Netaji. To-day, I will onlypray: Oh God! Give back our Netaji to us. Jai Hind, Jayatu Netaji".

of Home Affairs, who has affirmed the above affidavits-inopposition has contended that the above statement made by the then
Prime Minister, Shri Morarji Desai, did not amount to out-right
rejection of the conclusions arrived at by the Netaji Inquiry
Committee and the Knosla Commission and has verified the connected
averment as his information derived from the records which he
verily believes to be true. I call upon the contesting respondent
who seek to rely on the said affidavits-in-opposition of the said

Under Secretary to produce before this Hon'ble Court the records from which the deponent derived his information that the above statement of the theng Prime Minister made in the Lok Sabha did not amount to out-right rejection of the conclusions arrived at by the Nataji Inquiry Committee and the Netaji Inquiry Commission. Such a construction of the above statement of the then Prime Minister made in the floor of the House considering the above resolution of Professor Samar Guha is wholly unwarranted and without any legitimate foundation and the reliance now sought to be placed on the repots and findings of the above two Inquiring Bodies on the basis of such construction of the subsequent statement of the then Prime Minister in the floor of the House is tantamount to the grossest possible disrespect to the proceedings of the Parliament and the definite stand taken with regard to the said two reports by the then Prime Minister of the country in the floor of the House in the context of the above motion of Professor Samar Guha for consideration of the report of the Khosla Commission.

ascertain whether there is any subsequent decision by the Government of India upholding their earlier acceptance of the reports and findings of the Netaji Inquiry Committee 1956 and the Netaji Inquiry Commission 1970 by treating the above proceedings in the Parliament and the above statement of the then Prime minister on the floor of the House as of no consequence and the records from which the said Under Secretary is stated to have derived information for the purpose of making his averment in the said affidavits-in-opposition in support of his reliance on the said two reports and findings de house the above statement made in the floor of the House by the then Prime Minister Shri Morarji Desai in the debate of the above motion of Professor Samar Guha.

11. The contraditions in the earlier two reports referred to by the then Prime Minister, Shri Morarji Desai, must te available in the records of the Government of India on the basis whereof the said statement was made by the said Prime Minister. Such contradictions have also been dealt with slaborately in the above-mentioned book of Professor Samar Guha. While I reserve the right to make appropriate submissions with reference to such records, if produced, and the above-mentioned book of Professor Samar Guha at the time of hearing, I am citing by way of illustration the wvidence of Dr. B. Ram Chandra Rao, which should be found in theorecard of the proceedings before the Khosla Commission and which does not appear to have been dealt with at all by Mr. Khosla in his report. The said evidence, which stood the test of cross-examination before the said Commission, directly demolishes the story of Netaji's death on the 18th August 1945 at an alleged air crash at Taihoku. It contains completely different report of Netaji's escape to U.S.S.R. by a Garman sub-marine brought from Saigon after the plane, which is alleged to have left Saigon with Netaji and alleged to have crashed at Taihoku causing his alleged death.

According to the evidence of the said Dr.B.Ram Chandra Rao, the said plane landed at Japanese Emergency Landing Place after about 20 or 25 minutes of its flight from Saigon and the said witness along with Netaji and some more persons came out from the plane, where after the plane took off from that place. Netaji took shelter in a Japanese barrack from, where he boarded the German sub-marine brought from Singapore after a few days in the presence of the said witness. Notaji is reported to have heard the news Agency before his departure for Soviet Russia by the said German sub-marine. The evidence of other witnesses relied on by Mr.Khosla also speak of the said plane haulting overnight at Tourane on its way to Tainoku. No evidence is available on record

as to where Netaji stayed during the night at Tourane and it appears from the evidence before the Shah Nawaz Committee and the Khosla Commission that Netaji and the General Shidei separated themselves from other passengers of the plane and left Tourane under cover of the night on the 17th August 1945 for Dalat, as narrated by Progessor Samar Guha at page/246 of his book. This fact lends support to the evidence of Dr.B.Rama Chandra Rao about Netaji having a break journey at a Japanese Emergency Landing Place and having departed from the place a few days thereafter by a German sub-Marine for USSR. It is quite significant why Kr. Khosla did not deal with the evidence of this witness in his report and the non-consideration of this evidence of Dr.B.Ramachandra Rao by itself vitiates its findings in favour of the air crash story.

While I will crave leave to refer to relevant books 13. and documents and to make appropriate submissions with reference thereto regarding the perversity of the proceedings before the Khosla Commission as well as its purported findings, I will place strong reliance on this aspect of the matter by referring to the relevent passages from the above-mentioned book of Professor Samar Guha containing detailed analysis of the evidence led before the Khosla Commission and its purported findings. The letter of Professor Samar Guha dated the 7th December 1977 addressed to all the Central Ministers and Chief Ministers of the States seeking their cooperation in the move to annul the report of Khosla Commission set out at pages 285 to 290 of the said book contains a brief summary of the facts establishing the perversity of the report and findings of the Khosla Commission. The text of the said letter is set out hereunder as part of my submissions on the above point :-

" A Letter to All Ministers

Before plunging into any drastic action, the author thought it prodent to prepare a convenient background for

its justification. He decided to write to all the Central ministers and Chief ministers of the States seeking their cooperation in the move to annul the report of the Khosla Commission. But as they were not expected to go into the details bening the reasons for rejection of the report, the author wrote a letter, giving in nutshell, the salient features of the untenability of the findings of the Commission. The following letter was sent to all of them individually:

Prof.Samar Guha dember of Parliament (Lok Sabha) Lok Sabha Symbol 14,Talkatora Road, New Delni 7th December, 1977.

dear friend,

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The demand to scrap the report of Khosla Commission 'Disappearance of Nataji Subnas Chandra Bose' is not an emotional or sentimental issue, but based on irrefutable facts of documents and avidance.

Our generation will remain ever condemned by the posterity if we fail to discharge our national duty to unearth the mystery shrounding the fate of the epic hero and the greatest regolutionary of our struggle for national liberation.

There should not be an lote of doubt about the fact that Netaji did not die in the alleged aircrash at Taipei on August 18, 1945.

British Disclosure

The recent revelation made in the Top Secret British document is enough justification in support of the demand to scrap the findings of the Khosla Commission. Lord Wavell, the then viceroy of India, personally carried the report prepared by the Home Department and it was approved by the Attlee-Cabinet on October 25, 1945, i.e. 67 days after the

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reported aircrash. This report, inter alia concluded.....

"Leave Bose where he is and do not ask for his release.....orssurrender. He might, of course, in certain circumstances, be welcomed by Russians. This course would raise fewest immediate political difficulties

This report of Wavell was considered by the Attlee Cabinet after the preliminary reports sent by three investigation teams ordered by the Wavell Government, Mountbetten's Hendquarters, and dec Arthur's Hendquarters to "arrest Bose, dead or alive".

The British Government never officially announced acceptance of the report about Netaji's alleged death.

The report of the investigations about the story of Netaji's death conducted by - (i) Figgess's team, (ii)

Finney's team, and (iii) Combined Strvices Detailed Intelligence Centre (CSDIC), - were never published.

The Figgess's team accepted the report of Netnji's death as true but withe a rider, that it might also be "a Master deeption plan". CSDIC report wholly disbetieved the story of Netaji's death. Finney's report was never disclosed.

Why Knosla Report Should Be Scrapped

the Chairman of a Judicial Commission, but almost like an officer of the Government of Mrs. Indira Gandhi. He - (i) wrote an official biography of Mrs. Indira Gandhi while presiding over the inquiry Commission on Netaji, (ii) brought a personal present for Mrs. Indira Gandhi from Taiwan, and (iii) published a book called 'Last Days of Netaji' almost varbatimly reproducing his Report before it

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was placed in the Lok Sabha with a purpose to influence the opinion of the Members of Parliament about his findings.

- Mr. Khosla worked with a prejudiced mind against Netaji and with premeditated and pre-fixed notion about the report of Netaji's death. At least in 27 places of his report, he most atrociously described Netaji as a "Puppet", or a "Tool", or a "Pawn" of Japan without any evidentiary materials whatsoever, in order to create an impression that Sapan could never provide any protection to a man whom they considered as nothing but a 'quisling' and, thus, having no respect or responsibility for him after the end of the war.
- (3.) The Government under Mrs.Gandhi informed Khosla
 Commission that about 34 confidential files, specially
 maintained by Pandit Nehru himself on Netaji mystery, were
 found either "destroyed or missing". Mr.Khosla never
 enquired from the Government how it could happen.
- 4) Mr.Khosla deliberately scuttled Commission's enquiry in Taiwan by refusing to establish any communication either with the Government of Taiwan, or any non-official agency there.
- topography around it definitely proved, on field survey by Mr. Khosla and according to the report of the Airport Authority that the alleged plane reportedly carrying Netaji could never crash at the spot identified as the place of aircrash, but Mr. Khosla refused to record these invaluable evidence to disprove the whole story of aircrash.

The

- (6). Mr.Khosla efused to take evidence of about 10
 Taiwanese witnesses who claimed to prove that a plane
 crashed at the identified spot near Taipei area not in
 1945 but in 1944. This 1944 aircrash was passed off
 by the Government of Japan as 'the aircrash in 1945'.
- Taiwan to provide the Commission with the report of enquiry about the alleged aircrash that was done by the Government of Taiwan, the findings of which disbelieved the story of Netaji's death in the aircrash. Facts about the findings by the Taiwanese Government were placed before the Commission by about five members of Parliament who earlier visited Taiwan as guests of its Government.
- (8) Although only few documents were produced by the Government before the Commission, yet Mr.Khosla practically considered none of them in his report. For instance (i) Mountbatten's Diary containing valuable information about Netaji, (ii) British Intelligence report from China, (iii) Four signals left by Japan related to the report of aircrash, (iv) British Intelligence report quoting Russian Kambassador at Kabul and Russian Vice Counsul at Tehran as publicly Stating that Subhas Chandra Bose was at Moscow in 1946, none of these documents were considered by Mr.Khosla.
- (9). Mr. Khosla & examined 224 witnesses, but he chose to believe only 5 Japanese witnesses, 4 of whom claimed to have travelled in the same plane with Netaji and the fifth one described himself as the doctor who treated allegedly injured Mstaji, although none of them could produce a single piece of paper or document in justification of their kasimony testimony. During cross-

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examinations, these witnesses proved themselves verily as nothing but tutored lines.

- (10) Dr. Yoshimi whom Khosla described as a 'witness of convincing truth' proved during cross-examination to be nothing but as aswitness of convincing untruth.
- (11) Habibur Rahaman was the only accomplice of Netaji during his journey from Saigon. At least six recorded statements of Habibur Rahman were produced by the Government as official documents before the Commission. These documents clearly showed that Habibur Rahaman deliberately concealed facts about the alleged aircrash. But Mr.Khosla deliberately declined to treat them as documents before the Commission.
- (12) Mr.Khosla refused, as well, to treat various photographs connected with the story of Netaji's death as valid documents although they were supplied by the Government of Japan. This he did as these photographs created serious doubts about the story of Netaji's death in the alleged aircrash.
- (13) Mr.Khokha did not agree to verify what happened to Gen. Shedei, the Chief of the Kwantang Army, who accompanied Netaji from Saigon and who was also reported to have died in the alleged aircrash. None could furnish any positive information about Gen. Shedei, although Tokyo broadcast mentioned that Gen. Shedei died along with Netaji.
- (14) Mr.Khosla did not try to find from the Government why the British Government made fresh inquiry into Netaji mystery at Tokyo in 1950.
- (15) Mr. Khosla suppressed the facts that the 'cremation Permit' of alleged dead body of Nataji was supplied by the Government of Japan, stating that 'this cremation permit

must correspond to Subhas Chandra Bose" - as, on translation from the Japanese scripts, it was found that in fact it was not the cremation permit of Subhas Chandra Bose but of an ordinary Japanese soldier. It was indeed an indirect hint left by the Government of Japan about the falasity of the report of Netaji's death.

- (16) Mr.Khosla, as a diversionary tactics, dealt elaborately in hisreport about Shaulmari Ashram Sadhu, although in his 25 days argument the Counsel, on behalf of National Committee on Netaji, never claimed that Shaulmari Sadhu was Netaji.
- perjury, perhapse unknown in the history of Indian Judicial profession. For instance, he stated, (i) Sarat Bose's press-statement was not produced before the Commission, although it was done; (ii) he deliberately misquoted Gandhiji's statement about his belief that Netaji was alive, (iii) Mr.Khosla claimed that CSDIC report was secretly shown to him by the Government after conclusion of the proceddings of the Commission, on the basis of which he tried to knock down the evidence of Biren Chakravarty, the principal CSDIC Investigation Officer who personally stated before the Commission that the CSDIC report disbelieved the ex story of Netaji's death.
- (18) Mr. Khosla met Mrs. Gandhi and her officers several times before submitting his report to the Government.
- I cangive many more reasons for scrapping Khosla Commission's report, but for the sake of brevity, I think the above will be considered as enough.

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I am afraid the officers dealing with the issue of Netaji have not exerted themselves to go through 7,000 pages of various papers dealing with the proceedings and documents of Khosla Commission and of the earlier Shah Nawaz Committee. They are likely to submit their report to the Cabinet only on the basis of Khosla Commission's report, the veracity of which has been challenged on the floor of the House by me many times.

I have studiously gone through all facts, documents and evidence found in valuminous papers of Shah Nawaz Committee and Khosla Commission and, of late, taken particular care to study the Top Secret Documents of the British Government, published recently. After careful examination of these papers, I have come to the definite conclusion that Netaji did not die in the alleged aircrash. I would, therefore, request the Government to scrap Khosla Commission's report for Reopening, Reconsidering, and Reviewing the issue of the Netaji mystery.

If the Janata Government also like to follow the footsteps of the Congress Government, I might have to pay the price for undoing it. A truth is always established not by many but by a few and I have pledged myself to establish the fact that Netaji did not die in the aircrash, and in doing so, I shall be prepared to pay any price for it.

I would, therefore, fervently appeal to the Government to scrap the report of the Khosla Commission for REOPENING, RECONSIDERING AND REVIEWING the issue of the Netaji mystery.

With kind regards,

Yours sincerely, Samar Guha" contemporary intelligence reports and the records relating to the transfer-of-power, since published by the British Government, in establishing the fact of Netaji's presence in Soviet Russia after the death of the alleged air crash at Taihoku, the letter of Khurshed Naroji referred to in my earlier affidavit as also in the affidavit of Shri Amiya Nath Bose proves conclusively that Netaji was in Soviet Russia in 1946, if not earlier.

The air crash story does not find the slightest support 15. from two eminent historians, namely, Dr. Ramesh Chandra Mazumdar and Professor Amalesh Tripathi, whose books on the Indian independence movement are eminent historical works on the subject. While Dr. Mazumdar draws a complete blank after the departure of the plane from Saigon, Professor Tripathi describes the rest as complete silence. Dr. Mazumdar also refers in this connection to the book of Shri Satya Narayan Sinha, containing a story of Netaji's captivity in Soviet prison at Siberia. While I will crove reference to the relevant portions of the above two historicals works of the abovenamed two eminent historians at the time of hearing, I am quoting below from the report of installation of a portrait of Netaj in the Central Hall of the Parliament on the 23rd January 1978 narrated at pages 290-291 of the above-mentioned book of Professor Samar Guha. The relevant portion of the speech of President Neelam Sangiva Reddy is reproduced hereunder :-

"Many people say Netaji is alive. If it is so, he will not come to be come Prima Minister or President. Why should he come for that? He is too big. We are all pigmies before him. Let him come even for a day to bless us, bless his countrymen"

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In the ceremony held on 8th March 1978 for releasing the above book of Professor Samar Guha by the President of India, reported by Hindustan Times Correspondent and quoted at pages 292-294 of the third edition of the said book, President Sanjiva Reddy is reported to have assured Professor Samar Guha in his speech that a joint effort would be made by the Government and the said author to find out if Netaji was alive and that the President felt sure that the Soviet leaders, who were "our friends", would do something to locate Netaji.

17. It will thus appear that there were sufficient materials in the records of the Government to show that the mir crash story was not believed by the Government of India on valid and cogent grounds, leading to the categorical statement by the then Prime Minister of India in the floor of the Parliament in the year 1978 to the effect that in the light of reasonable doubts cast on the correctness of the conclusion of inquiry reached in the two reports and various important contradictions in the testimony of witnesses, which had been noticed, and some further contemporary official documentary records, the Government of India found it difficult to accept that the earlier conclusions are decisive. It is, therefore, most significant that in raking up the purported findings and conclusions of the said two earlier reports in support of the description of the Award of "Bharat Ratna" purported to be conferred on Hetaji as a posthumous one, the Government of Indiah has not only castigated the above categorical statement of the then Prime Minister, Shri Morarji Desai, without any basis whatsoever but have also come forward with a purported claim of privilege in respect of all documents relating to the making of the said Award as also the question of Netaji being dead or alive, which is alleged to have been gone into by the Government of India in the above context. The above device purported to be adopted by the Government of India is

Calculated at completely screening out the entire evidence of Netaji being alive after the alleged air crash and his presence in Soviet Russia in subsequent times and the basis of the above-mentioned statement of the then Prime Minister, Shri Morarji Desai, in the floor of Lok Sabha as well as the above-mentioned statements of President Sanjiva Reddy in the two functions held in the earlier part of the year 1978.

- ment of India, in respect of the records which are essential for adjudicating the pointsoff controversy in the instant proceedings and which they have been specifically called upon to produce by this Hon'ble Court is not only not entertainable, but is liable to be rejected straightawny, particularly in the above context. The said purported claim is thoroughly malafide, aimed at subverting public interest and repugnant to the very concept of the citizens being allowed to know the facts, the true facts, about the administration of the country, which has been recognised by the Hon'ble Supreme Court as one of the pillars of a democratic State.
- Detween 28th November and 11th December 1990, the daily editions of 'Jugantar' published a series of 14 articles by me dealing with the mystery centring round the whereabouts of Netaji Subhas Chandra Bose containing diverse factual data and source materials with an objective analysis thereof, while many of such data and materials have already been reflected in the pleadings of the writ petitioner and other supporting respondents including myself in someform or the other, some of the glaring racts showing that there was no air crash at Taihoku on 18th August 1945 and Netaji was nlive for many years thereafter have been stated in the said articles to which I will crave reference at the time of hearing, if necessary.

I have gone through the entire proceedings of Lok
Sabha containing the parliamentary debate on the motion of Prof.
Samar Guha on Khosla Commission in the context whereof the then
Prime Minister, Shri Morarji Desai gave his statement in the
floor of the House on the 28th August, 1978, which has been
referred to hereinbefore. The following speakers amongst others,
participated in the debate, besides the mover (Prof.Samar Guha)
and the Prime Minister (Shri Morarji Desai):-

- (1) Shri Sasanka Shekhar Sanyal (Jangipur)
- (2) Dr. Vasant Kumar Pandit (Rajgarh)
- (3) Shri Dhirendra Nath Basu (Katwa)
- (4) Chaudhri Balbir Singh (Hoshiarpur)
- (5) Shri Vasnt Sathe (Akola)
- (6) Shri K.Mayathevar (Dindigul)
- (7) Sm. Chandravati (Bhiwani)
- (8) Shri Sangata Roy (Barrackpore)
- (9) Shri Mrityunjay Prasad Verma
- (10) Shri Chitta Basu (Barasat)
- (11) Dr.Karan Singh (Udhampur)
- (12) Shri Tridib Chaudhuci (B ehrampur)
- (13) Prof. Dilip Chakravarty (Calcutta-South)
- (14) Shri Dwarikanath Tiwari (Gopalganj)
- (15) Shri Narendra P.Nathwani (Junagadh)
- (16) Shri Bedabrata Barua
- (17) Prof. P.G. Mavalankar

Each and every speaker spoke in strongest terms in support of the motion accross party lines and wanted scrapping of the Khosla Commission's Report and institution of fresh enquiry. It seemed to be the unanimous view of the house which they were voicing. -181 -

It is in the above context that the debate was concluded by the above statement of the Prime Minister, after which Prof. Samar Guha made his further statement in reply. After this nothing remains of the Khosla Commission's report or its earlier acceptance by the previous Government and the search for Netaji continues. I will crave reference to the said Parliamentary proceedings at the time of hearing.

- In the aforemaid context it will not be unnatural to assume that the Government of India must have been aware at the relevant point of time of the facts subsequently covered by a series of reports on the investigation by the North Indian Patrika published from Allahabad into the background of an unmammed saint, whose alleged death at Faizabad (U.P) in the year 1985 triggered much speculation about his identity.

 Taking into account the gravity of the subject and the political sensivity involved, the said newspaper, according to it, took pains to record the results of its enquiries dispassionately and objectively with a clear representation to the readers that they would stand by their report before any forum or authority, leaving it to the readers to adjudge the matter on its own merit with open mind.
- 22.. The series of the above reports appears in the daily editions of North Indian Patrika under the caption The Man of Mystery I to XVII under the head-lines and on the dates mentioned below:

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I.-The Intellectual Revel - 20th December 1985

II.- Stalking the rebel - 21st December 1985

III - The fair lady comes at midnight - 22nd

December 1985

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- IV. "I pleage to keep this secret" 23rd December
 1935
 - V A Saint or a Statesman? 24th December 1985
- VI Tell-tele Tape 25th December 1985
- MII The Lame Law Lucks 27th December 1985
- VIII A close brush with the administration 3fd
 - IX The Ultimate refuge 5th January 1986
 - X Finsh-back to Neemsar 9th January 1986
 - XI Discovering a dead trail 13th January 1986
- XII The ultimate feed-back 18th January 1986
- XIII A doctored Version 19th January 1986
 - XIV The Last Days 20th January 1986
 - XV He talked of Germany, Japan 21st January 1986
- XVI The silent evidence 22nd January 1986
- XVII "The man was Subhas Bose" 23rd January 1986
- Xerox copies of the relevant cuttings from the said newspaper of the relevant dates, as available to me, are annexed hereto and marked collectively with the letter "B".
- above investigation reports in greater details at the time of hearing, I may state that the same professedly relate to a Sannayasi, who came to India from Nepal and stayed at different parts of U.P. during the period from 1950 to 1985, his last

place of abode being at Paizabal (U.P), where he is reported to have taid down his mortal remains on the 16th September 1985 at 9-45 P.M. and was cremated on the 18th September 1985 in a completely wrapped condition by an assorted group of 13 men, highly literate on the one hand and rustic on the other. Such cremation of the completely wrapped body is stated to have taken place on the high ground of "Guptar - Ghat" on the bhanks of the sacred Saraju river, where Lord Rama himself and He alone had taken "Jal Samadhi" seons ago, the said place not being a cremation ground and nobody having had any opportunity to see the dead body after the alleged death or before the same was reduced to ashes in a completely wrapped condition.

- 24. It will also appear from the above reports that in spite of messages having been sent to his acquaintances at Calcutta, who used to come to the said Sanyasi and had opportunities of meeting him, none turned up at the time of cremation. It is also stated in the said investigation reports that quite a number of me and women known to the said Sanyasi used to come to his places of abode on the 23rd day of January every year to delebrate the birth anniversary of the said Sannayasi. The people who visited him included close associates of Netaji Subhas Chandra Boss like Smt.Lila may and Shri Pabitra Monan Roy.
- Sannayasi and prepared by the local police in the presence of local witnesses included various items capable of being considered as bearing association and/or identity with Netaji.

 While some details of the said inventory of articles prepared by the local police and taken charge of by the Government are available in the said reports, some of the items reported about are listed below:-

- (a) Besides household goods, a lot of silk material, crockery of Japanese origin, a large number of books in English, Bengali and Hindi, personal belongings including a golden ring, one watch (Omega), one pocket watch (Rolex) and another Swiss made watch. This pocket watch closely resembles to the one which Netaji used to carry, as is evident in many of his photographs.
- (b) Power glasses with golden frame that can be likened to the ones which adorn the photograph of Netaji were also recovered.
- (c) But the most significant material comprises a large number of books, newspaper clippings and other documents that one way or the other relate to Subhas Chandra Bose.

- (d) Powerful German binoculars, a typewriter 'Empire' of England, a National Panasonic tape-recorder, 'Bhilips' record players, a selected records of Tagore, Nazrul Islam, Bismillan Khan and Vilayat Khan, Jewellary boxes though empty found in one of the boxes.
- (e) A letter written by one Trapti to the mysterious man in 1967.
- (f) A letter written by one Amal Roy addressed to Shri Samar Guha bearing references to Forward Block people communicating that Shri Samar Guha was an important link so far as the mysterious man was concerned.
- (g) A packet containing six letters to Durga Prasad Pandey of Basti were found in one of the trunks two of them dated the 10th February 1967 and 21st February 1967, written duringthe mysterious man's stay at Basti, one of the letters containing the statement: "You had been an ex-ICS Officers of scholarship with far reaching command

over English, January 23, was calebrated as your birth day here, the most auspicious day of the country".

- (h) A copy of the representation dated the 19th August,
 1977 by Shri Sukamal Ghosh, Editor of Jugantar, Shri
 Sudhangshu Kumar of the Hindustan Standard, Shri
 Sitaram Seksaria, Shri Dwijendra Nath Sen Guota, a
 former M.P., Dr.Ajit Kumar Das and Shri Sunil Das, a
 journalist and close associate of Netaji, pleading for
 re-opening of the inquiry into the mysterious
 circumstances under which he had disappeared.
- (i) Another clipping of a newspaper with the headline "Netaji Kahan Hain three pieces.
- (j) Some of the letters sent by one Manubhai stating that if Metaji re-appears; people will come out to help him financially.
- (k) An old letter dated January 20, 1964 by Shri Sunil Das Gupta, a journalist known to be a close associate of Netaji Subhas Chandra Bose, containing reference to Shri Praffullac Chandra Sen in connection with lifting of the ban on January 23 celebrations of Netaji's birth-day and also bearing mention about the writer's meeting with Shri Surendra Mohan Ghosh, who had met Swami Sharadanand of Shaulmari Ashram for two days and stating that Shri Surendra Mohan Ghosh had met Shri Jawarlal Nehru, Dr.Rajendra Prasad and Shri Morarji Dasai before his meeting with Swami Shardanand. Another striking feature of thisletter is a fact mentioning that after the "plane crash" Netaji's name had been dropped from the list of war Criminals since the Allied Power and British Government had accepted Netaji as dead and that

he will be treated as an imposter in case he re-appears. This letter further says that after talks with Shri Ghosh, three pertinent points have emerged (1) He believes that Nataji is alive (2) He is alive to the probability of declaring Netaji as an imposter under certain circumstances in the event of his reappearance (3) He is keen to reach Netaji if he could trace him.

- (1) Copies of an astrological magazine, "Bhavishya" of Allahabad dated the 28th May, 1981 carrying an item of Subhas Chandra Bose.
- (m) A newspaper clipping referring to the writ petition filed by one freedom fighter Shri Nand Lal Sharma, pleading for ane enquiry into Netaji's whe reabouts, containing reference to the fact that Shri Sharma had produced extracts from the diary of Netaji Subhas Chandra Bose.
- (n) The clippings of a series of 24 articles headlined 'Plane crash isaa planned story" safely kept in a file.
- (o) Among the large number of books on national and international affairs was found a book 'Life Beyond Death -Netaji Through German Lens'.
- (p) Postal stamps released on Netaji's birthday (January 23, 1964) were alsof found preserved.
- (q) A Bengali daily of Calcutta carrying news about unveiling of Netaji's status.
- (r) A letter from Shri Surendra Singh Chowdhri bearing reference to Shri Bahuguna, Shri Raj Narain and other leaders of the Janata regime.

- (s) Extracts of the controversial of Khosla Commission's Report typed in 40 pages.
- (t) Typed copy of the statement made by Shri Dwijendra Nath Bose before Khosla Commission.
- (u) Original summons issued by Advocate-Commissioner of 24-Parganas to Shri Suresh Chandra Bose (brother of Netaji) for appearing before the Court of the District Judge on August 17 in connection with the Commission's proceedings.
- (v) A large national flag with rope and strings.
- (w) Carefully-scaled maps of almost all the places of the mysterious man's sajourn, besides those showing the places of his close associates including Pabitra Mohan Roy.
- (x) Letters of Shri Pabitra Mohan Roy with the address of Dum Dum Park, Calcutta-700055.
- (y) A big parcel from Shri P.M.Roy dated March 29, 1983 containing 13 Bengali books and a magazine.
- (z) Books of Sarat Chandra Chatterjee, five volumes of 'Mahabharat' in Bengali, two Bengali books with Netaji's photographs on the cover and two Oxford Dictionaries were in the heap of documents lying in the room where the mysterious man was living.
- (as) Pipe-tobacco, two sealed bottles of very old foreign brandy, boxes of homosopathic medicines, currency notes of all denominations valued about ~ 5000/-, woblen garmets of large size and saffron clothes.

- (ab) Khaki pant (32" x 44") Tee Deas Dressers and a skyblue half shift - Tee Deas Dressers.
- (ac) A coloured photograph of Swami Viveknmandn.
- (ad) An album of foreign origin meticulously maintained preserving the photographs containing 13 family group photographs of Subhas Chandra Bose in different settings, one of them being Netaji with his mother and father.
- (ae) Six plastic covered back-stands with Netaji in different posesnd his family members, one such photograph containing the caption below:

"Januki Nath with his family", in which Subhas Chandra Sose is found on extreme right.

26. As far as I am aware, the articles belongint to the said bannayasi, which were taken possession of by the local police, are still lying in the local Coart and have not been disposed of. I have also come to know that some relations of Netaji laid a claim over the said property but the matter is still pending adjudication. I am not aware of any steps that might have been taken by the Government of U.P. or by the Government of India to find out the truth as to the identity of the said Sannayasi and his activities during the period of his stay in different partsh of Uttar Pradesh after coming to India from Nepal, according to the above investigative report of the Journalist. Although the said report refers to his coming to India from Repal in 1950, I have ascertained from some people, who had connections with the late Pabitra Mohan Roy, that the Sannayasi gave indications to Shri Roy that he came to India in the year 1959 along with the entourage of Dalai Lame. The Government of Uttar Pradesh should be able to give a correct

account as to the exact period from which the said Sannayasi had own living in the a said State. The circumstances under which the alleged dead body of the Sannayasi was burnt in such mysterious manner, as aboresaid, at a place which is not a cremation ground and information as to whether the persons responsible for such mysterious type of cremation were able to produce any death certificate containing the perticulars of the deceased should be available in the records of the U.P.Government or of any judicial proceeding that may be pending in the local Court involving the properties left behind by the said Sannayasi and taken possession of by the local police after preparing an inventory as stated in the above investigative report of the Journalists.

27. I am also not aware if the Government of India is relying on the alleged identity of the said Sannayasi as expounded by the said Journalists and treating his alleged death in the year 1985 as the death of Netaji Subhas Chandra Bose for the purpose of describing the award of "Bharat Ratna" on him as posthumous. The extraordinary stand taken by the Government of India in their affidavits-in-opposition purporting to rely on the discarded reports and findings of the Shaw Nawaz Committee and the Khosla Commission in pretended support of the said Award being described as a postnumous one raiss genuine suspicion that there is, reluctance on the part of the Government of India to disclose the real facts as to Netaji's death, even if according to them, such death took place subsequent to the alleged air crash. Such reluctance may be founded on a determined unwillingness on their part to desseminate information to the people of this country as to the whereabouts of Netaji after 18th August, 1945 and the place and date and year of his alleged death at any subsequent point of time because that might involve incidents, personalities and countries lending an element of sensivity to the entire episode according to the estimation of those responsible for taking such

a decision to completely black out information in the above regard.

It is, therefore, in the fitness of things that full 28. facts about the said Sannayasi and his alleged death in the year 1985 should be disclosed before this Hon'ble Court and the Government of India should take a definite stand as to whether adcording to their information and records the said Sannayasi was no other person than Nebji Subhas Chandra Bose himself. In case, howavar, the contesting respondents take a different stand as to the identity of the said Sannayasi they should be colled upon to satisfy this HonSble Court as to why complete silence has been maintained by them over the matter despite publication of the above investigative reports in a well-known daily newspace of North India in 17 instalments stretching over a period of about three months. If, however, the Government of India do not dispute the correctness of the estimation of the said Journalists as to the identity of the Sannyasi, they should be coming forward with full facts about the stay of Netaji Subhas Chandra Bose in the Indian territory for a period about 35 or 25 years or so from 1950 or 1969, as the case may be, and the reason as to why his identity was not publicky acknowledged and declared. In that event, the contesting respondents should also disclose satisfactory records to establish that the said Sannayasi being no wither person than Netaji Subhas Chandra Bose himself actually died on the date and place as reported by the said Journalists and if the dead body that was actually gremated in such a mysterious manner in a completely wrapped condition was that of Netaji Subnas Chandra Bose.

principal investigative reporter of the said series of reports appearing in North Indian Patrika in course of some of his visits to Calcutta, during after the publication of the said reports and

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discussing with him different aspects of his investigative reports. He told me that there was great impression in the minds of the people interviewed by him that the Sannayasi was Netaji himself, although he never came out openly to say so to the local people. He also told me that on the basis of the information available to him from the people whom had met the said Sannaynsi on several occasions that he was Netaji. He particularly mentioned about Dr.P.Banerji and his family of Faigabad who were associated with the Sannayasi over a logg span of time and expressed his strong impression in favour of their feeling about the identity of the said Sannyasi that he was Netnji Subhas Chandra Bose himself. I also got the impression from Shri Nibedon that he shared the views of quite a large numberd of local people that the mysterious creamat: tion of a completely wrapped dead body was nothing but a subterfuge to cover the Sannyasi's escape from Ayodhya Leaving behind his articles as proof of his real identity. As an investigative journalist I felt satisfied about the correctness of the findings and views of Shri Nirmal Nibedon, who unfortunately died an unexpected death within a short period thereafter.

- 30. I could not mention about the above events in my earlier affidavit, as the file containing the newspraper clippings of the above investigative reports was misplaced or lost. I have since been able to procure copies thereof which are being annexed hereto, as stated hereinbefore.
- 31. The facts and circumstances of the case as revealed in those investigative reports do require, particularly in the context of the stand taken by the Government of India in their saveral affidavits filed in the instant proceedings, that in order to effectually adjudicate the points of controversy involved therein the State of Uttar Pradesh through its Chief Secretary and the District Magistrate, Ayddhya should be impleaded as respondents in

the instant proceedings. The Managing Editor of the North Indian Patrika, Allahabad Patrika (P) Ltd., SA Patrika Marg, Allahabad should also be added as a party-respondent in the ends of justice.

32. I submit that if all the above fadts are taken into consideration along with those pleaded in my earlier affidavit, this Hom ble Court should be pleased to quash and/or set aside the impugned conferment of posthumous award of "Bharat Ratha" on Netaji Subhas Chandra Bose and the impugned documents purported to be relied on by the Government of India in pretended support of their contention that Netaji died in the alleged aircrash on the 18th August, 1945 at Taihoku and to pass suitable orders in the case in the ends of justice.

33. Statements made in foregoing paragraphs 1 to 31 (both inclusive) are true to my knowledge, while those in paragraph 31 are my respectful submissions before this Hon'ble Court.

Sd/ Arundhati Muthergee

Selle Supernta Ruman Mitra
The deponent is known to me.
Selle Joyde for Tonajdan
Clerk to. S. Mullbeyee

Solemnly affirmed before me this.....day of November 1993

Commissioner

-38 - 193 - Annex we - A

No.31/2/74-Poll.(ILIT) .

Covorment of India Ministry of Home Affairs

NEW DELHI-1, the 2nd Beptember, 19

OFFITE MANORAMOUN.

Make Patrall Transfer Commission's

Mandaral and is directed to forward herewith:

- RI copies in Englishe and Hindi including one outhenticated copy each of the Report of the one-man Commission to inquire into the disappearance of Netaji Subhas Chandra Boses
- (2) 21 copies of the Memoranium of the action taken on the Report (in Hindi and English) in accordance with the provisions of section 3(4) of the Commissions of Inquiry Aot, 1952.

A77 spare copies of the Report in English and 150

(J.Brinivasan) Unior Secretary to the Govt. of India.

(Shri N.N.Mehra, US)

Copy Do! Parliament Section (MHA).

Sumesure "A

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MMEDIATE.

No.31/2/74_Pol1(D_III) Government of India Ministry of Home Affairs

NEW DELHI-1, the September, 1974.

OFFICE MEMBRAIDIM.

Bubs Natuti Inquiry Commission.

The undersigned is directed to forward herewith:

- (1) 12 copies in English and Hindi including one authorizated confront of the Report of the one-man Commission to inquire into the disappearance of Netail Subhas Chamina
- (2) 12 copies of the Memorandum of the action taken on the Report (in Hindi and English) in accordance with the provisions of section 3(4) of the Commissions of Inquiry Act, 1952.

for being laid on the Table of the House on the 3rd September, 1974.

2': 275 spare copies of the Report in English and 50 copies of the Report in Hindi are also sent herewith for circulation.

(J.Srinivasan) Under Secretary to the Govt. of Imia.

Rajya Sabha Secretariat (Shri d.P. Ganguli, D.S.),

Parliament Section (MHA).

13

Annesure "A

MEMORANDUM OF ACTION TAKEN ON THE REPORT OF THE COMMISSION OF INQUITY REGARDING THE FACTS AND CHROMSTANCES RELATING TO THE DISAPPEARANCE OF NETAJI SUBHAS CHAPDIA POSE.

dated 11th July,1970 Shri G.D.Khosla, retired Chief Justice of the Punjab High Court, was appointed under the Commissions of Indian Act, 1952 to inquire into the facts and dirematance felating to the disappearance of Notaji Subhas Chandra Doseith 1945 and the subsequent developments connected therewith.

2. The Commission completed the inquiry and submitted Ita

3. The Covernment have examined the report and have, decided to accept the findings of the Commission that Netall Subhas Chandra Bose died in an air-crash-on the 18th August 1917 at Taihoku airfield in Taiwan.

This Report is placed before the Heure is required under sub-section (4) of Section 3 of the Committee of Inquire Act, 1952.

50-15-82

intellectual rebel

From Nirmal Nibedon, with Vishwambhar Nath Argra

PAIZABAD. Dec. 19. - The trail is co.a. but the leads are hot-the hottest-ever in the history of post-independence ingla-On September 18, 1985, an as-orted group of 13 mea, nighty sorted group iterate on the one hand, and rustic on the other, hurriedly cremated a body on the night ground of Guptar Ghat on the Baryu river where Lord Runa himself, and he alone, had taken g "Jal Samadhi" scons ago.

The pyre was hastily lit exact-The pyre was nastly it exact-ly at 4-3) p.m. But more of this replaces later. For now will un-fold a sordid spectacle that even loadling cannot choose but pity.

The investigations and plecing together of the exciting material painstikingly collected by night and day led us to the mescapable belief that the man who left the world three days before the cremation was one of the greatest personalities this country ever had who had left the world unknown and unsung. Those who were around the leaning them. were around the leaping flames

ing so swiftly turned into ashes -into dust

If he was a samt of such s. high order, why was he not buried as the custom dictates? Why was he consigned to the

were not strictly the kind of per-established contact with Dr. sons to have gauged the poten- Pavitra Mohan Roy, once the tials of the body which was be- top functionaries of the secret once the top functionaries of the secret service of the Indian National Army.

The three-month-long investi-gation threw up a battery of questions. What is the truth behind this legend concerning a

This is the first in a series of reports on our tire ti-gation, into the background of a nameless soint whose death in Falxabad recently triggered much speculo-tion! about his identity. Taking into occount the gra-vity of the subject and the spollical isensitivity in-volved we have taken pains to record the results of our inquiries dispassionate ly and objectively, and will stand by our report before any forum for authority Wa hope our readers will also judge this matters on its own marits with an open mind it

the too, after delay of body had ever seen, but only three whole days, and, at whose heard his voice from behind a explicit directives? The evidence later suggested that Anupam Mishra, son of Dr. R P Mishra. Out of the seven local persons rushed to Cafcutta and there he involved in the strange happen-

flames in such an unusual manimy sterious personality whom no

ings around the Man, five were down-to-earth city men, witravelled, and professionals, widely ing back a lot of information, but unanimous on one fact about the Man, unhestratingly declar ing that He was "a great perso-nality" indeed.

Within the first few weeks of the investigation, one could not help but come to the conclusion, despite the hearty acepticism, that here was a man indeed who possensed deep wisdom and deep wisdom and mrange powers. a person who had wrested from nature a madinvisible and tery over forces imangible. But constant vigilance was needed to arrivest this conclusion. All through the torconclusion. All through the tor-tuous trails, we were compelled to maintain a critical but not a hostle eye wherever we went separating the wheat from the chaff, as it were, overlooking the liberal paint and plentiful varnish of the simple folk with the view that truth can stand on its own feet. At the same time, it

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Guptar Ghat, where the " Baba" was secretly cremated, the only mortal to have

FROM PAGE ONE

mured thus

A SPHERE STANDERS OF THE PARTY CAN

-12-85

mystery man

was a singular latt, as a significant one, that before we began to try our luck in this strange quest. Dame Fortune strange quest, Dame For nerseit came in quest of us.

After a month it was gettine increasingly clear to me and my back-up team that this was no ing slinging investigative report ing, but that we were flying witnestes to happenings, marvelloun and weird, and were placing it perore an equally incredulous world.

As far as the rustics were concerted, it was always looks of embarrassment. An agonishing protonged pause followed every piercing question. There tear and suspiction writ large on the face of at least two of the seven characters known to have been the confidants of "the Man who had left his body." We realdimcult ised ruenilly what a difficult task it was to help the simple tolk to find their "ongues and speak candidly, persons always of the unknown.

the form in which to touch their

"We do not wish to be inter-We do not wish to be inter-viewed and photographed, of to talk to total strangers about our experience. This was under-standable, initially they did not want to break their chronic sit-pies for the sake of a Jean-clad-

vital links for his survival until his death. Of course, none dared raise a subject or a topic which the Man did not initiate. It was always He who chose the subject and often in a sporadic manner, manner. None date question antecedents or ask about his iden-tity, for that would be at their peril. "We feared Him and his perfil "We teared him and his powers", said Mahaima Baran, a reputed Greenter of Ayodhya, a person, who, willy-nuly, played a vital role in the later days of the Man who chose to leave the world unknown

The more we sough: for expla nation, the more we retreated batfled. Investigations were further hamstrong by the fact that in the with a totally new class or men. living in make-shift hous, eating hardly any food and praying to God

The administration in general and the government agencies were hardly of any help in the investigations. The Man was as myster rious to thm as to any careal inquirer. The general detence was that at least an estimated 200 such wandering saints-or beggars, if you like-come to and leave Ayodoys without the administration being any the wiser, strange individuals in solitary retreats, far from the madding crowd in the tations in Assam, the Punjab and Magaland, maintaining a strength y tals of the cities wistfully years if these days.

Pear and dread of the unknown ; powers of the Man was the key for silence. As every level of the latestingation, whether related to the Testingation, whether related to the Teertha Purchit of Ayothya, or distinguished personalities like Dr. R. P. Mishra of Faizroad, cenain vital facus, it seemed to personalities us, were always kept secret. One was up against a secret cult, it were a society operating for decides under deep cover and sotely under His command: the ob-fective—to keep his identity un-Known.

"Cnoe 10me 200 away from Ayodhya, I spoke about the Baba to a friend of mine. This was the first and last. ilme I ever referred about himiso. anybody For when I met him lar I ier, he was furlous with me still wonder with awe how did the Baba know what I had said. It was a severe scolding that I received from Him. I did not have the courage to talk about him ever again; nor did he meet me for several years after this incl-dent" said Krithna Gopal Shri-rastava, 45, an art teacher at the Rajkaran Vedic Inter College, one of the choice for

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want to break their enronte sitence for the sake of a lean-claded only man, who generally possesses neither sympathy nor understanding of the subtleties of piety and purity, and compassion, they later said, was never in the jungles of the cities. Only when they were convinted that we too were independent investigators of truth, they made certain reveluctions, but kep, secret what they

20-12-85

Here was yet another classical example of a personality who would nave excited the curiosity of men like Burnouf. Colebrooke and Max Muller, who all had proved so succinctly that the "heathens" who lived in the sub-continent with their innumerable Gods and Goddesses were not so stupid as their own ignorance had presumed, "Panda" Pam Kishore Mishra, "Teertha Purchit" of Ayodnya, later proved it to the hitt. For he was one of the privileged few who med the Man face-to-face, the Man they had cremated in a great hurry, and in such an 'unusual spot', to quote the official spokesman of the administration of the twin townships of Falzabar

and Ayodhya, and for that matter, the entire district.

Indeed, first-hand investigation was the only answer in this hallowed spot, for many others had gone before us to unravel the mysteries of money-spinning conjurity and jugglers with plous frauds, indistriminately mixing hearsay with facts. The commonsense attitude was the only way for us to achieve a king of limited breakthrough into the closely-guarded secracy in which the man was carefully enshrouded for more than three decades, a Man constantly on the move from the pryling eyes of the gopulace, with the help of an inner band of the faithful bound by a vow to keep his identity a secret all their lives until "the appointed hour."

All through, we were baunted by the suspicion that the characters around the cremated Man were imposters, attempting to construct a theological paradise and going about their business as if they were God's own estate agents, Was this strategy only a cover-up ope-The deception seemed ratioin? complete. The consistent projec-tion that the Man was a "Disna-mi Sanyasi," a reserved and reclusive saint, who chose to dell-ver his oracular instructions from behind a closed door, or an ochre home into curtain, drove hearts of the spiritually inclined citizens of the district. But to all intents and purposes, he appeared to us to be an intellectual guerilla of the rarest kind.

For spiritualism was not the only subject that was being discussed between the enconced Man and his band of the faithful, all

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dividuals in solitary reveats. Dr. froid the madding crossed in the isolated river banks, men who have been devoding their entire existence to practices they believe will bring miraculous powers. After all, the sacred apots of the country have never been withous nef traditions of the mysterious, the occult, and thus, many are the stories being spread like a forest fire about this Man. (An excellent cover-up operation for a man who was not strictly a saint).

Here, then was yet another ragged mendicant, but with a difference. Even while having ensured his constant security, constant mobility and constant mistrust, in built-up areas and isolated places alike, he kept himself informed under his cover of a 'sanyasi' about the storms of political agiRajkaran Vedic. Inter College, one of the thosen few.

Was it just a string of coincidences or a historical fact? This is what we wondered after collating the facts the mountain of evidence we had collect ed though only the tip of the keeberg, er, on December 20, 1942, at Berlin, the Man he was allegedly impersona-ting had a very disturbing dream that all was not well in Calcutta. For on this day, the Japanese Air Porce, some 6,000 miles away, bombed Calcutta. Next day, early to the morning, he asked his close confident. Dr. Oirija Mukherjee, to get an shrough t immediate feedback & through the Axis intelligence channels about the bombing inclintelligence Sent. His dream turned out to be true

(To be Continued)



The man of mystery-II

Stalking rebel

Nirmal Nibedon, with Vishwambhar Nath Arora From

FAIZABAD, Dec. 20 - He had no desire to fo found a school or collect a following, and his ambition seemed to treich no farther toon ting unobstrusively through life. He had nothing to add to whatever little he had said to chosen few. But the to the chosen few. But the mountain of materiol left achind by him would speak rolumes for postcrity, this much was clear as we stalked

this rebel. At every place where he had stayed, we left tempo-rarily defected. Our interest had not waned, on the contrary, it had been heightened. The entire endeavour involved scattered and discursive unvestigations. red scattered and discursive investigations. Which varied from a engthy cross-examination of Mrs. Saraswati Shuk a, whom Baba called as Ma Jagdambe, and who in the last days looked after nim as a child since he could walk, to secret interviews walk, to secret interviews with the investigating authorities. In this way there was a measure of success in piecing together a fragment of

the story. Exactly 35 years ago the man had slipped into India from Nepal the trans-Hima-layan land of mystery, and reached Lucknow city by reached night when Babu Sampurnanand was the Chief Minister.

months at

For a few years he stayed at near the city. No one knew house situated in Shringar, who he was, what he was Naga in the Alambagh area. or whence he came. InquisiHe even spent some six tive inquiries who addressed

even spent some six tive inquiries who addressed the at Khadia village, his escorts received no reply

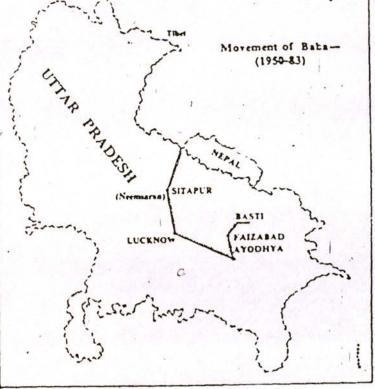
for their pains. He spoke to none, heeded to calls and no persons

The outskirts of a city like Lucknow were hardly suitable for a person who wished to live incognito. The modern recaluse can only find lavourable conditions in sparse jungle spots. forest retreats

pungle spots. forest retreats and mountain cames.

Security was the overriding concern of this man. Have no doubt about it. "Restricted security" would be more apt in the intelligence tragon. A close contact of the man contact of the man would brief another confi-dant about the requirements A hectic search would be launched for a suitable site, more often than not most more often than not most unsuitable for meditation. Artifical ramparts would be built to the ancient buildings. high brick walls and fenches around the location to secure more privacy. "B" knew only "A" and not the man. A secret cell was constantly at WOIK.

And, so, he shifted in the dark of night in 1955 to Neemsaran, a pilgrim town in Sitapur, and lived in hiding for six years. The pattern was the same. Whenever he felt that his cover was going



BEN PAGE 8

FI FROM PAGE ONE

The man of mystery

to be blown, he sped away in a heavily-curtained car by night with all his possessions following in two hired trucks, following in two hired trucks, his helpers seemed to appear, from nowhere for a swit getaway, like ghosts in the night. Every site was chosen keeping in mind an escape to the following to avoid detection by hight. Every site was chosen keeping in mind an escape route to avoid detection by all and sundry. The entire operation was, in fact, or chestrated by the nameless personality and executed with military precision after his final clearance.

On the surface, he sought

On the surface, he sought none and accepted none. Rumours often had it in the various locations that he was one of those solitaries who preferred to live in isolation in order to achieve his own spiritual liberation. None

of this enigmatic figure.

In 1962, the trail moved towards Ayodhya, where for the first few months he stayed at Shankar Niwas in Darshan Nagar village in an abandoned palatial building It was a safe house, and certain visitors from Bengal were expected.

There are no lingering sun-sets in this part of the country. Night comes swiftly on the heels of evening. Dusk hardly stays. And so it was yet another shifting by night to the historic Lai-Kothi in Ayodhya dity, yet another veritable fortress with spraw-ling lawns in the front. The I falthful had chosen the location well, had studied the neighbourhood, the character and personality of the owner of the building—Mr. Vishnu Narain, a banker and multimillionaire. Every site was an ambush spot, a temporary base for a split second attack and a swift getaway.

This time the "recce party headed for a much more lonely spot in another town and chose the isolated Sharista Kothi belonging to the

He ordered that the two side entrances be sealed white bricks immediately. The idea was to have only one eptwas to have only one entrance in the structure facing the rising sun. A high wall was simultaneously erected in the southern portion atthough at that time there were no neighbouring hull only gladescut away by high was all around. Here he remained, impassive indifferent to the world, properly roofed and adequately protected in probably the safest place his faithful had never located in the past to escape the most persistent inquirers in the vicinity. The mysterious mendicant

The mysterious mendicant who cared not for worldly power, because he had virtu-ally renounced all and really renounced all and resigned all, had a terrible tragedy. Age had already caught up with him. He was reaching almost 90 years, when he slipped and arrests. caught up with him. He was reaching almost 90 years, when he slipped and auffered a compound fracture, so the legend goes. It was a crisis situation for those who were in charge of his security. So once again by midnight, they shifted the man sometime in 1983 to a secluded apartment called Ra Bhawan in Faizabad, but not before making it an impregnable fortress. By all accounts, the man knew his end was nigh.

(To Be Contoinued) (To Be Contoinued)

Special stamps

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FI FROM PAGE ONE

1-12-85

The man of mystery

to be blown, he sped away in a heavily-curtained car by night with all his possessions following in two hired trucks. his helpers seemed to appear from nowwhere for a switt from nowwhere for a swift getaway, like ghosts in the night. Every site was chosen keeping in mind an escape route to avoid detection by all and sundry. The entire operation was, in fact, or-chestrated by the nameless personality and executed personality and executed with military precision after

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On the surface, he sought and accepted Rumours often had it in the various locations that he was one of those solitaries who preferred to live in isolation in order to achieve his own spiritual liberation. None could foretell the movements of this enigmatic figure. In 1962, the trail moved

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Special stamps

Department

NEW DELHI, Jec. 20.—The Department of Posts will issue two special stamps on December 24 reports UNI One stamp of 50 paise, will be in honour of Ravi Shankar daharaj in the freedom ighter series.

The other stamp is being issued by connection with International Youth Year. The two-Rupee stamp will be in multicolour, an official relegie sala today.

contol, to ment

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Raja of Basti. The man slip-ped out by night when his numerous trunks which ever remained unpacked. Here he spent nine long years in spent nine long year solitude as time turned after page of the calendar of the years.

But time and circumstan-ces, which shall be narrated later in detail, compelled this nameless and faceless man to shift again: this time through the labyrinthine lanes of Ayodhya city on the day of "Dhanterash", two days before "Deepiwall" to Probled Descended in the control of the con "Deepawall" to Prahlad Dharamshala in a Flat car. The house belonged to Panda Ram Kishore Misra. An advocate, Mr. Durga Praand Pande of Basti, accomof dra Mishra, another Advocate of Faizabad, had approached withe Purohit.

The advance guards paid to the Purohit in advance and pe hinted that it would be ocnic cupied for only two months or so. They kept their word. On the midnight of January 15, 1915, the man disappeared without anyone in the crowdred locality any the being wiser as to the destination.
The man's intelligence intelligence P wing this time chose an inconspicuous where the first, ninth and tenth Ourus had schourned for rest and recuperation. This desolate quarter belonged to Sardar u sowourned on cuperation.
In quarter belonged to Sardar
or Guru Bux Singh Sodhi. Here
hasty foruncations to again, hasty foruncations were built, though it was not necessary in the rear portion of the building, which was us on a sheer sliff along the steady and silent quietness to the Saryu river. The selection was such, that this tem-

accessible tomb. 15, 1978, after a On May of he vacated the house at or he vacated the house at Brahmakund Gurudwara and shifted to yet another son-stary site, the ancient and of abandoned Lucknowa Kothi

tion was such, that this temporary abode was like an in-

in Ayodhya itself.

The main doors lead to this structure over five wide steps.

FROM PAGE ONE

Civic staff

desired as had been done

desired as had been done herevious case.

However, the demonstrators had different ideas. They called for 'gherao' of the Administor if he did cril a halt to all this.

In the process of reeing himself from the demonstrators, the Deputy Administrator falls down and his fingers were bruised. He was taken to his room, as there civic employees reached the spot employees reached the spot on sensing trouble and it now became a 'free for all'.

Reinforced, the tivic staff virtually drove out the demonstrators.

Dr. Rajnikant Dutta, the Congress (I) MLA who was there perchance had to face the wrath of the Mahapalika employees too,

Later, the police also arrived on the scene

ed on the scene,

The workers held a small meeting outside the gates and condemned the move for assessment without holding civic elections. The police, however, did not interfere and a lowed the meeting to so on.

go on.

In the meantime, the civic employees too held a meeting

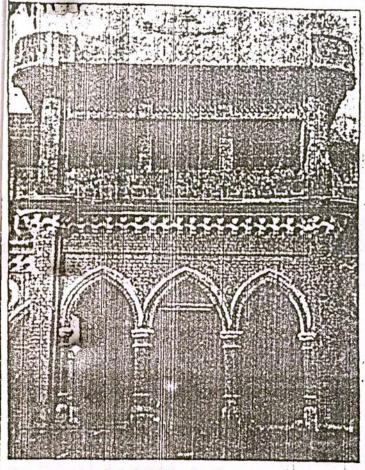
employees too held a meeting at the Nagar Mahapalika auditorium with the Administrator, Mr. Kalika Prasad, who had reached the office by that time in the chair.

The meeting was also attended by the officials of the Mahapalika and the Vikas Pradhikaran and they raised the issue of security. The Administrior is understood to have assured them that measures on the security front would be taken.

However, the Mahapalika employees decided that they would not work until the culprits esponsible for the incidents were brought to book. A named FIR was also lodged with the miles and the selection of the security front would be taken.

A named FIR was also lodged with the police. Benior police officials visited the place and made enquiries

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Lal-Kothi in Ayodhya

22-12-85

Amritsar police is investigating into the reported circulation of a large number of counterfeit currency notes in certain areas of the district, according to the District Police Chief, Mr. 8 8 Virk. reports PTL

verdict of 1984 and as use some of Staff of the Pakistan army. The Eighth Amendment Cons titution Bill has authorised the President to 'retain both tha retain both the offices. But the final decision

Special stamp on Monday

will rest with the President.

NEW 'DELHI, Dec. 21 .- The Postal Department will issue a special stamp in honour of Master Tara Singh in the freedom fighter series here on Monday, reports PTL The stamp will be released

by the Communications Minister, Mr. Ram Niwas Mirdha, at a function in Teen Murti house. The Punjab Minister. Mr. S. Chief Barnala, will be the chief guest.

Printed . in multi-colour, the 50 palse stamp bears the portrait of Master, Tara Singh.

Dec.

AMRITSAR.

Hasanpur police station in Ghazipur district was set ablaze by an abgry mob of demonstrators demanding the arrest of the police subinspector who is alleged to Inspector who is alleged to have beaten to death a rick-shawpuller. The extent of the damage was not known. Police action, if any, was also not known.

that a first class compart-ment of 597 Down Varannai-

Barauni train was set ablaze by an angry mob consisting

mostly of students at Basu-chak Hal station. Though

the compartment was reduced to ashes, no casualty was

The trate mob first asked all the occupants of the com-

all the occupants of the com-partment to vacate it, deta-ched it from the train and then set it on fire. No fire tenders could immediately reach the spot to sive the compartment. The passengers who were forced to vacate the

who were incompartment were into taken to Nandgaj station by the railway and the police

reported.

Ah angry mob of several hundred persons set fire to a consolidation office at Dulhapur, about 35 kms. from Champur. The office records pertaining to land sattlement

man of mystery

A fair lady comes at midnig

From Nirmal Nibedon, with Vishwambhar Nath Arora

AYODI YA. Dec. 21 - By now the journalistic instincts had been sharpened to an abnormal degree by our consharpened to an cern with the unusual. For we were trespassing on forbidden ground, on little-known trails which had be-come as cold as the winter of year. Having traced the route, metaphorically, I and my back-up team had cut the first notch in the stick of this man's movements.
He came by (night in the He came

summer of 1962, it was almost side world.

all silhouettes beneath the moon. The tall hooded figure had quietly entered the bull-ding known as Lal Kothi and then was lost to the world forever. There were others hastily unloading the trunks from the two trucks, two Bengall helpers to be precise. But it was the man's third companion who aroused the curlosity of Ram Swaroop. the Mahant of the nearby Khairabad Temple, which the man had to pass during his nocturnal dashes to the outside world. "She was a fair midnight. There were others Bengali lady", said the Ma-

on from a discreet distance, more out of a general curio-sity than any specific interest

Later the intelligentsia the town claimed that this lady who appeared from literally nowhere in 1962, and that this vanished subsosuddenly quently, was none other than Lila Roy, one of the closest confidents of Netaji Subhas Chandra Bose, the live-wire of the women's wing of the of the women's wing of Indian National Army.

Mahant Ram Swaroop Das "Swamiji lived in Lai-Kothi for more than two and a half with him, three to be precise, hant, who watched the going-, years. He always moved by

night. He used to where on certain nights by a green Ambassador car which was always well curtained. So was his premises, so that no peering eyes could peretrate the privacy of the apartment".

It was clearly evident to the Mahant that the inmates of Lal-Kothi were taking extraordinary security preextraordinary security pre-cautions, for in any case to get near to the building, one would have to walk at least 10 yards to reach the bungalow through a big gate from road where untarred 20

(See Page 8) -

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FROM PAGE ONE

Man of mystery

vehicular trame in the mid-60's was an unusual sight; only the monkey frateralty abounded in this area, mingling with the populace as in the rest of Ayodhya.

Mahant Ram Swaroop Das had a rather vivid picture of the events of those times, though he never could delve deeply, nor did he consider it necessary, to probe into the antecedents of the man, whom some people around referred to as "Swamiji", and so did he. The Mahant did espy the Bengali lady on numerous occasions and the two Bengali lads, apparently

escorts of the man.

Then the owner of the Lal-Kothi, Mr. Vishnu Narain, was a flamboyant personality of Lucknow, a thriving banker and a multi-millionaire. Today at 84, he is indisposed, though still the proprietor of Speed Motors, Lucknow and several other firms. During the man's sojourn at Lal Kothi, the millionaire was one of the colourful personalities of the high society of Lucknow, at busy man throughout the day.

He just cannot corroborate the Mahant's certainty of time and dates and the mysterious goings on in Lal-Kothi.

Mr. Vishnu Narain: "More than two decades ago a Bengail person aged about 50 years approached me for accommodating a Swamili in one of my Kothis at Ayodhya. I allowed him to live in Lal-Kothi. While he stayed at Lal-Kothi, the Swamiji never appeared before anybody and always remained within the cloistered guarters of his room. The behaviour of the inmares did lead me to believe that hecwas a mysterious man indeed".

In a feeble rendering of the dim past, the octogenarian businessman recalled that word had spread that the hidden Swamiji was a "very big personality". This is all he could say from his sick bed at a neighbouring bungalow to Lai-Kothi. a stone's throw away.

The Mahant, since he lived in the locality those days, as now revealed that the law amamili. Dr. Sanakanand Oiri, in Heneall Sanvasi of high repute, visited the man

often. Swami Sanakanand was highly respected in the area and was the founder of the Sanatan Dharma Indoor Hospital, a charitable institution existing to this date. "He was the only local person in my memory who visited Swamiji's apartment at regulor intervals", said the Mahant!

What transpired between them in that musty room. The Mahant could not say anything, but certain he was and some others in Falzabad, that Swami Sanakanand embarked on a European mission at the behest of the nameless man. He returned later with a foreign Matador, though the gadgets inside the yan were confiscated and not allowed to pass by the Custom authorities of Delhi.

Once again it was time to move. Events would once again move in rapid succes-sion. The Swami's meticulous move. planning and yearning live apart from the wo from the world once again aroused the curiosity of a person, a policeman for a change. The then Inspector incharge of the Ayo-dhya Kotwall, Mr. Jitendra Bahadur Singh. was a visitor to Mahant Valdel Raman Saran of Hanumat Niwas, some 50 yards away from the Lal-Kothi where three roads meet Mahant Saran manag-ed to send a discreet message to the escorts of the man that the Injector wanted to meet the Swami face to face, come what may. No reply was received at the Hanumat received at the Hanumat Niwas. The Inspector wanted to live up to his name and planned a raid. He was determined to unmask the man in one swift, lightning strike; counter-ambush of souts. not knowing that the ground had already been chosen for any such eventuality. The any such Bahadur Inspector stormed in one night with his posse. in one night with his poase, but only to find empty rooms. For the man had left with his escorts, the fair lady and huge trunks under cover of twilight; on that very day. Mahant Ram Bwaroop Das was bewildered; a puzzled man, pondering over all these things in his heart.

The man left the town and chose Rasti as his hide-out.
(To Be Continued)



Sharists Kothf of Raja Sabeb of Bastl, where the Man' stayed while in Bastli.

health, reports PTI

The man of mystery-L

From Nirmol Nibedon

Exhausting Rothi belowsing to the all who heard him that the Man Red of Bally was the next had perceived parce the Bally about the stony on a 1922/7 224/1109/21 had for motionizing quality of these known as 1921/7 All which a had for by sojourne seemed to have in- rusto few the the maintaining the personality of the Man, He resemble of exitation and the himse mained mutations in a local that he personality of the Man, He resemble of exitation and the himse mained mutations in a local that he before his hidden, resemble, the the not rerbat of other feelings, snapgely, were

royal scion of Basti. For an out- the Man peered into the inner sider, a Man who had overty more revised of the more never cared to cultivate the ex. 1505 who wen il front of the remail world, the conxect system more revised. If front of the seemed to be functioning like a first unfailing, that he could well-oiled machine. His under see everything in their hearts cover links appeared to be in his extraordinary deep voice redible in this region of extern 15010 sent a wave of fundary like the strategically-located area. Fifther that impression to the strategically-located area. keys, that, villageray: scampered, Yeebal mandates through the down the trees and fled! Alex surtain was all they recovered. It was more than a coincide Yes those who met him from dence mas in 1964, He sojourned behind the Limited or counted by the Sharista were inter librally crushed by Kothi belonging as the Sharista were inter librally crushed by Kothi belonging again to the Lia resonant voice. The Eye, of modiately. Like chattering more wi to come nearest to the Mana-Noth Arora

TUDY CIRCLE ost of prospectus (Informality Delhi-110001 by sending MLO: 15 Reasonable Preparedness to seven in the lirst selections 193 1979 onwards total selections 1967 onwards Prelims): Personal & 100

FAND,

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mornenti equ os bus bolated palatial building belongmore.

onymous characters in this buth drama. At Shankar Niwas, for fratance, the Man, had a very characters shave with the world to cauch a glim to of him, But out any excitement for the anprangety-for a man who had rillagera around climbed the These periods were not with Thes around Shankar Niwas

VILLE. not

Durgs Frasad Pandey

known that it was not, the first

he would

the intruders did not retreat im-

stope's throw from Lal Kothi Madapa of Ethalrabad living at a

YOUHYALDed 27:- Had the

man wielding an automatic wear the security system was tight A

pon sprang out in from nowhere not hesitate to enhoot to kill and threatened, that he-would

solourn of the Man.

To M sequedum and sent

Man and bis three companions

nad solumed at Shankar Niwas

have thrown a file- During . the

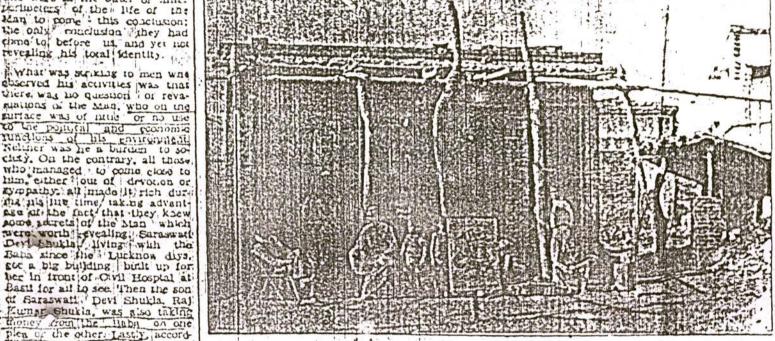
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See Page Tarry

FROM PAGE ONE

14 5

IE MAN MYSTERY



The big house built for Sara swati Devi Shukla at Basti n ow under renovation.

通生物 dous We did not have to prompt shows by edd not have to prompt the old of the few characters and were in the outer or machineters; of the life of the Man to come this conclusion; they had come to before us and yet not revealing his total identity.

sustions of the Man, who on ing surface was of intile or no use to the popular and comming rundlions of his environmental Relation was he a burden to so cludy. On the contrary, all those who managed to come close to him, either jour of devotion or hyppathy, all imade it, rich during his life time, taking advantage of the fact that they knew some sarrets of the bian which mere worth evenling Saraswatt Deri Shuklat living with the Baha since the Lucknow diva-see a big building birth up for her in front of Civil Hospial at Basil for all to see Then the son di Garaswati. Devi Shukla Raji. Frumar Shukla, was also taking thoney from the habn on one plea of the other Lastly according to a letter found at Ram Shawan recently, be had asked for Rs. 5000 which shukla said would strictly be treated as a man to start some business. Our back-up team on a Visit to Basti bund; an indigenous mustard od crisher set up at the house of Saruswatt Devi and Shikla and unioping the has very much Controlled with with a member of Blukla said that he Controlled with a member of our team. Spinkin said that he has been seeing the Man Iron his childhood and he was not Netall Asked has he ever seen findographs of Netall, he replied in the negative.

During the entire course of his exile, if the Man really



Saraswati Devi Shukla, (Jagdambe Ma)

preded society, it will only out of compulsions dictated by exa-pencies of time. As far as the Morky Mas toucetoen' even m

mild ra

Proon this time it was not a cymical and down-to-earth policeman who came under the vigiof the Man. It was a lawyer
Mr. Durga Prasad Pande, who
was Hruck by the slring of coto
cidences around the abandoned
Sharistha Kotht

Invariably, around Jacuan 22-23, care came by hight; peo-ple later identified as comma from Calcuita brought delicious food for the Man on his birth-day which fell on January 23 Later It was proved that Dr. Pavitra Mohan Roy was one of the nocturnal visitors to the Man's blace. Dr. Roy, was one of the too officials of the necret service of the Indian National Army and closely linked Lional Army and closely linked to the Axis information chan-nels of World War II.

Mr. Durga Pracid Pandey was once again intrigued by the strange happenings around this sequestered structure. But Sharistha' Niwas ristha' Niwas was 'now, under constant observation, not with constant observation, not with the intention of bringing any harm to the Man as in Shankar Niwas, but with the opposition of the strue but with the objective of character of the occupant living In utmost secrecy.

Events conspired to marriage the Lawyer that the Man was Indeed, none other than Subharh hero of the Chandra Hose, the her ed to live in such philul condi-tions for reasons his mind could

with the traditional 'Ja: Hind'. written at This latter ti.ouzh Bastl, was found found in the nage material belong no 10 t Ram Bhawan by a amount of the Man at Ram Bhawan b) a member of our back-up team who was present at the time of preparation of the inventory the materials left by the Ma at his final abode at Paizabad. of

Durga Prasad Pandey wrote: _You had been an ex-IOS of an ex-ICS of profound scholarship and far-reaching command over English marked with an enormous?
beautiful and elegant handwill-23 was celebrated trg. January



Raj Kumar Shukla

as your butnday hate, the most auspicious day, the day of the our bail-up team that me his country when the immortal that come from Negal and wich .. tile

risi

man at a time, taking the sa Lied or researed to the could from his reverations was clear that the high Musico the Parona of Apodora Rail Estince Rolls whose home was regulated for laver by the bast Lawyer Lersell

There are startling discussions In the version of the Basil las abien clearly counte the the Man was not just a richar our an important postucal per sonally in the pages of nators a history wraten more b. for eletters than the natives of th edd, aschasory that has under pune radical changes and co-rections with the unearthing c routing skeletors in the cupacht and in the most unusual place of this value land

lideed, the conversation well the lawyer and the Ma finaled beyond pertunctory varied scraps or talk, removing the double of the swayer the unit forms thated was the skendly Reight He desiberate of the masters, concentrating the masters, concentrating the (1:57 "AZAG Hind Fam" Hilustrillia alia us B. A. P. IC. naid. recording to our owner nun at Basti, Mr. Rajena Prasad Srivastava, who given ine taux to grill the re Leta laages.

"The laayer correbuts ed

contil to rixt

4. ...

ASH HAME SHE STATE AND thefully dend. Such was trategy devised around him. was the sthefally

The professional scalpel ind now to literally strip the spiritual cover of this Man, whether he be what his acherchts a number or a saint, if his real personality, his real worth were to be rightly evaluated at always enveloped by the

of a remote town of Uttar Prathrough and through an tree
desh unravel the web of Insert flora and fauna on the Incian
hational intrigue and controver a soft i please to keep the series
sy surrounding a Man who had
as long as I am in the world presumably died in an air crash the Talpeh on August 18, 1945.
The only way out. Historica, was to communicate: with the

Man himself. So, summoning up all his courage, he wrote on February 10, 1967 to the Man.

THE RESERVE OF THE PROPERTY OF THE PARTY OF

as long as I am .in the , worth My pleasure is thy pleasure. .iThis letter; s though civerly couched; hinted that the lawyer in the works bad, by now, come to know all about the Man. The lawyer said he had personally observed that on Appun 15 and January 25, a discreet ceremony has held Sharista Now in a carlonal of flutering in the treeze. Was fluitering in the breeze. Was it a kind of threat, a warning to reveal all if an audience was not granted? Only the Man could have replied, but He is co.more.

With what fleet-footed ness of conviction he stalked his quarry was again demonstrated eleven dars later when the Man did not reply. The second letter from the

from the lawyer dated Pebruary 21, 1957 alto recovered by our team said: "You are the wealth of our nation, so we should be allowed provision for prestrying and maintaining your health where we will share out wealth against the tyranny and mighty destructive forces of age, time and tide

'Ine lawyer was in a position, to strike a deal and be allowed on mare the secret rather than blow the Mans arep cover emithereeus, and to find out the real identity of the Man. And he succeeded. Confronted with a memmer of our back-up team at bash, Mr. Raj-ndra Prasad Brivastava on December 12, Mo Durga Prasad Pancey said Was committed po; to speak word about Bramili as my re-fation was like that of a Ouru-and a disople. Mr. Pander at Gilled that In a letter add essid to the Man in 127, he had committed himself not to divide anything to anything the anything the anything the mount speak only before a commission if and When see up by the Green and or he would rereal ill under torture of the police and law enforcement a enclea-w he is unable to stand up to it, be

interpreted by a special mittelligence tram at Basu, the lawfor apprily claimed that had he divulced in detail the real situation, and his knowledge of the Man, the Government sould baye "shaken", adding in a me-lancholy manner that at least one pace of the history of India. would remain a virgin black on

the last days of Nitali.
The laster disclosed to that Important I gures and distinguished personallies and leaders of the country were very much in know of the existence of field in this part of the

tountry, but had remained mum.
The most important revela-The most important re that wherever my Man lived. He entrusted off life and semi-

of the Furthi in Ayothys, Also, it was getting expeedingly riest that the fair Bengat lady had by then disappeared Imp min au, and later was acknowledged to have passed away in Calcula, but not before leaving that evidence letters spe had written to the Man under the came of Lifa Roy.

At Barti itself, the Man got mito trouble as in Shankar Nikas For one thing yet another sleuth. The Bration House ther sleuth, the Bajion House Officer of the Kolwai police Station, wanted to bust the mytery of the nameless Man. The increasing that the Man none other than Nelaju "After all, egerything, strange events transported only in darkness...
heartly curtained cars of an
makes Indian and foreign, city
sahing in the colore sure. We Follers for the asking of the Man abo Apart from ble rord! Great sailed only the flarst charity and got the best medical care in the Fernity. Then me Mo helper of the Man who was with him since the Lucknow enfourn get entangled with some came dangerously near to unmasking the true identity of the Man. Women are apt to commit follies and so this rustic lady too. The lady incurred the wrath of the Man who knew that time had come to shift sgain.

The mystery deepens once again. Por according to the facts collected by our back-up team at Basti when the police officer instituted on griting kill audience with the Man, he was audience with the man audie Post packets of the finest my were purchased for Bakmili, His elgarette packets came direc-ily from Delhi through a spepirsons used to owne in image cars in the late hours of a sight at an interval of one or two months and the cars disappear to the ca red at dawn the next day, socording to the Bastl lawyer.

In retropect, the turning axie of time, the bub of space still eluded this personality we eluded chis personality sought so deligently and . doggedly, tempung one, after hearing all the fascinating narraof the area, to strike off at an unexpectated tangents, forgetting the principal purpose of the investigation. For this sceptical age treats the search for truth as a trifle, while spending most energy Gion the serious pursuit of what the best moments rereal to be trifler

The Lawyer of Baul was dewas made his "commitment" to the lired Man in 127, in his own words, He entrusted his life and scott never to reveal the secret, they into the hands of only one that too in black and white.

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MEGHALAYA, SHILLONG.

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Tatesing

Nirmal Nibedon with Vishwambhar Noth

Arora

and the result. It seemed, to of the Man, did not dare to the back-up team following open. Httperceptions and His doubt about the real identity cultivated in their minds explains why people around Him. If at any time, the the leads, was inescapable. that He knew beforehand leak it or dicuss it in the tically towards Him. who is to come to Him and ly fit, under the circumstanhe would draw them magneend. The legend reads, acworthy adherent who had Man had thought it extremeseasoned investigators to the ces, to rope in yet another which would baffle espled the legend, though not for purpose of the deception AYODIIYA, Dec. 23 - The met their destiny This even excellent place for a "name. Ancred Ayodhyn, again an

about the type of residence and Pande to go to Ayodhya her needed for only two He ordered Mr. Durga Praspecific indications

> though TH people close on His heels, the months. After all, there were rustic old lady cooking nia would be ensured, though. The lawyer, astutely chose bout his great personality. not naming IIm as

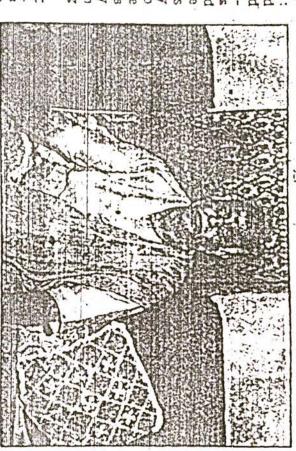
would be able to convey the less saint" to shift stealthly Apparently, the lawyer ap-beared to know the Man through and through by now, flere in the Hindl belt, who outward meaning, the deeper from Bastl. The security

purport of his statements in

phllosopher, nor as a pundit tie spoke in ilis dreams. To Englih and Bengall; even if Reemed not clusive doctrine, but rather out of the depth of His own a statesman? trying to explain IIIs own exthe lawyer, the Swamlli heart. As what ? A saint or to speak as u

concerned here was the Man not be ever betrayed, nay, of many things, a Man no glant intellect who had spent depth. Here was a Man of who penetrated to the inmost Here was a Man. Tho_could fife to almost a hndred years mortal cold meet, for he dishis life gathering knowledge lity who had extended IIIs dained the world, a persona-As far as the lawyer was

And, so the lawyer began his wanderings to an end at through his search in dead earnest his discreet enquiries brought lanes of Ayodhya city unth the laberinthine



Pt. Ram Kishore Misra, a Teerth Purchit of Ayodhya

Bee Page 6

The man of mystery

Prahlad Dharamshala of the Purohit of Ayodhya, a most chilkely place for detection. after the close encounter with the world at Basti.

For once, the emissary of the Man chose a rather trowded spot in a densely populated and built-up area, through parrow meanded in

through narrow, meandering lanes, but with a convenient racape route skirting Kach-cha Ghat of Ayodhya on the Raryu, where all cremations have taken place 'over the centuries. The entire strategy once again was that, happen what may, the Man would avert detection from any inquisitive gaze.

Enter the Purchit, Ram Kishoje Mishra, 56, son of the late Frahlad Mishra. To the back-up leam the Purchit disclosed

: How did you come in Q contact with this nameless

Man ? A It was when Mr Prasad Pandey, an advocate of Bastl. got him in my house as a tenant for two months

Q : What did Durga Pra-

sad say when he approached you for the accommodation? A. He said he required one of my 'dharamshala for a of my 'dharamshala for a period of two months so as to provide accommodation for. his Gurull. First, I refused, as the Karuka Mela was approaching and the mela was the real source of my livell-nood. To this Mr. Prasad said he was inclined to pay all that the house would fetch during the days of the fair. Further, he said, that his Guruji was an old man, and that he would make some arrangements within other two months.

Q : Do you know wij Guruji was shifted here from Bastl ?

A.

It is A I do not know. who should Durga Prasad know about it.

So you rented the house ?

A Y'cs. Q . When and how did you come to know about the ar-rival of this Man after you tented your house?

A It was only two or three

days after his arrival that Baball had arrived (a day or two before Deepawali while the house was let out

Dusshera). Q : Did not Durga Prasad tell you about the schedule

A: I had handed over the keys to Mr. Pandey. He got the house whitewashed. My was done once the key lob was hunded over.

是是我们的是我们的是我们的。

Q: Which year was it 7

Q : It means he celebrated Deepawali that year in your

Deepawali that year in your house?
A: Yes.
Q: So, when did you hiss go to meet Him?
A: I went to meet Him after 10 days, say about a week after the Kartik Mela. It was out of shear curiosity — attendant for I had never met a saint. He (the Baba) was accompanied by

Muslim escort. Muslim to convey my presence and wish to meet 'Bhagwanji' (little with which Padma Ram Kishore referred to the Man) In return, the Muslim escort asked me to come to the next day at dusk.

Q: Do you know the name of the Muslim attendant ? A: No Durga Prasad may

knowing about him

Q : Did you meet Him the

next day, face to face ?
A: No. I was sitting on a chair kept in the courtyard and the door (of the room)

was closed.

Q: Dur ing this first encounter, what did you talk about?

'A: I paid my regards and told Him that I was there for His 'darshan'. He gave me his blessings from behind the closed door. closed door.

Q: Did you not express the desire for a darshan ?
A: It was already known

to me that he would meet and one in person. This, the Mus-im escort had already told me.

Me.
Q: When did vou meet
Him again?
A: After two or three days,
with my wife. I told her He
was a great saint, a great

(An interlude occurs a: (An interlude occurs at this juncture, the Man saying, "It's good that you have come and brought Ma. It is all the grace of Ood—Durga Ma. You are now onwards Nanda Baba for me, and she, Nanda Baba for me, Washomati Malya. Please take me in this light and keep on protecting me as I wour hands now. I am in your hands have come in the have come in this city of Mahaviril for 'sadhana' (meditation), and you have to snsure that the 'sadhana' goes undisturbed. I am under ditation), a four refuge". (The title of Nand Baba and Yashimau; hand Baba and Yashimati, bestowed by the Man uton randa Ram Kishore Misra and his wife was only without meaning. As she mythological legend goes. Lord Krishpa

was entrusted into the care of Nand Baba and Yashomau by the Lord's parents to saye him from the murderous hands of Kansa, who then controlled the entire society controlled the entire society and the administration of the Umes).

Ram Kishore Mishra: He spoke with unusual modes r, and of this stage began a and of this stage began a religious discussion with us. He wanted to know if I performed any religious rites, including prayers. I answered in the negative. He felt sorry that, though a Brahmin. I did not indulge in such goding things. He advised me to follow the discourse, and, in a way, initated my in the path of religious actions.

Q: What was your emeas-aient of His spiritual status, since you met Him many times?

A : felt he was a great man, whether a politicion or a saint. I don't bother. He used Drdu words also while speak-ling Hindl. His accent, however, bordered on the Binsal form, he could have ocen an Assamese also.

Q : How could you ever judge that?

A : Pilgrims from every part of the country come to A : felt he was a great man,

part of the country come to

ent accents.

Q: What topics did he prefer to speak on ?

A: While he staved at my 'dharamshala', he first spoke religious subjects I came the conclusion that he war a saint of a very high order with a vast treasure of knowledge. Besides, he seemed to be an authority on a variety

of subjects.

Q: White was the period of His stay in your house?

A: About two-and-e-balf months. And, then He left.

Q: Did you see Him leav-

O How did you then with a know that He had left ?;
A: Duiga Prasad Pandby and told me a day earlier that the hous was to be yacated the next day. Besider, I was fold by others Chat Durga Prasad Pandey Gewith one companie 1 Palzabad-based relatives, Mr. N. C. Mishra, a lawyer, had come in a car in the late evening bours and Swamiji left with them at around eight or nine in the night. As usually the car was nearly curtained, and sped away by night to his new away by night to his new abode—Brahma Kund Gurd-wara in Ayodhya itse ' To Be Continued

The man of

Nirmal From

Nibedon,

with

Vishwambhar

Nath Arora

AYODHYA, Dec. 24—Before with the Purohit Ram Kishore ing to any fixed schedule.

we reconstulate the events at Mishra:—

Brahmakund, we will have some

Q: After he left your place bring items of daily use from more tables with the Phrohit of and went to Gurdwara Brahma- the market?

Ayothya, Ram Kishore Michra. For the rustic mind of the Purchit of Ayodhya, the world was not the Man's chief concern, though he kept himself abreast happenings of his of all the disdain. The Purotime, with could only mind purpose of the Man was to bethe Purchit was sure that the Man's primary concern was to keep his real personality a secret

zystem, for total security The secured, and salvaging the secspiritually rets became extremely hazardous We were on the at this stage. edge of a yawning precipics, the Man despite his age, determined to continue maintaining his underground lineage.

Our team's taped conversation

kunda did you meet him chere atso?

A: Yes. It was in my know- me a list of things. Include that he was shifting to burter, bread, cigarettes, some place in the vicinity of and vegetables. My so Brahmakunda Gurdwara com- often brought them. Brahmakunda plex to a house of a Sikh. Al that time this old lady, Mrs. spin a conjecture that the chief Saraswati Shukla was not there. Neither had she come with him bread and butter lead you to come something akin to the from Basti nor did she accome suspect that he could not be a divine beings. At the same time, pany him to the Brahmakunda saint? house. It was Durga Prasad A: No, eating bread and butPandey only who took the Man ter is not a sin. It is not a
to this house.

Q: When he left your house ple eat R. Besides I remain

him?

A: I did not see him there. Q: From where did the funds However, Durga Prasad's son remained there for five or six days.

Q: Did you visit him at Brah- come from Calcurta might bave nakunda house frequently? brought it. makunda house frequently?

A : Yes, but it was not accord-

A: Yes, sometimes as I would give including son too

Q: What about the money?

A : He gave it.

: Did the consumption of

ple eat it Besides, I knew well for Brahmakunda Gurdwara, that he was a scholar of Hindi, was the Muslim escort still with English Bengall Sanskrik and a him?

come 1

A: I don't know, but I guess that "I'lls men" who used to

Q : Being a frequent visitor,

did you ever notice who the

other visitors were?

A: During his stay in Brahmakunda, Dr. R. P. Mishra are the late Dr. T. C. Banerjee both from Faizabad came quite often Dr Baner of and members of his family were the only people allowed Inside his room a rar priviledge granted to lew peopl by the Man

Q : It means that Dr. Banarje and members of his family must have seen him well ?

A: Yes, obviously Dekha Hoga).

Q: Would you please tell usbout his standard of living?

A : He used to wear saffro colour "dhou" and half-sleev vests. This I knew from h Elothes spread for drying. had a fairly good, scandard (living. The stuffed bedding (Dunlop), was ordered to be w refled at the time of visits to

Q : Did he appear to be ac

FROM PAGE ONE

man of mystery The

nomical while ordering things being a Bengali and from market ?

quality-regardless of the cost. Q : Did you ever feel that the

expenditure was quite high? A : In my estimation, it would have been any thing b Rs 2,500 and Rs 3,000 thing between every

month Q : Who were the other risttors from Faizabad?

A : Dr R P Mishra and Dr B Roy, and, of course, the late Mr. T.C. Banerjee and his son Mr P Banerjae

Q: Anyone e'se?

Shrivas A : Krishna Gopel lege.

Q : Since you knew all these persons, you must have attempt ed, as a matter of natural curiosity, to enquire from them at out the identity of Swamiji?

A : No, I did not ask such a thing on my own. In fact, it was the late Dr T C Banerjee who hinted about this.

Q: What did Dr T C Baneries.

Tell you ?

A : Once, as I reached Brahakunda abode, I found Dr Baneries arending outside in the verandah adjacent to Bhagwan-Il's room. I enquired after Bhagwanli's welfare. The Doctor said he was stable, adding that, there was nothing to wor-ry about. Suddenly, I don't know what overcame him at "Aap this point, and he said: Dhanya Hain Jo K. Subhash Babu Ki Seya Mein Kuch Samar. De Paatey Hain", which meant: Blessed are you that you are able to spare some moments in the service of Subhash Babu.

did you react at Q: How

that moment?

A: I kept mum for a few seconds, and then I said. Theek hal, agar also baat hal to ham sama thtey appe ko gaurvanvit hain', which meant, if it is so

The purchit of Ayodhya: I the same had a hunch that this man historio might be pone else than Bubhash where the Babu. It was on account of his

Bengan And : No, he was always after Lora on every January 24, from of that for I never got in touch with the dengan values. White bere, they would sit in one of the side rooms and we in a difledens one, mey would in Swamiji alone. Swamiji THE LO Bengau and Engush while in conversation with these visitors.

January 23 was not the only occasion when these Bengali visitors came. Even during Waysometimes they did not come at all.

The Man's unkempe A: Krishna Gopal Shriyas ance and unklown origin, nowrustic mind. From behind the curtain, it was exceedingly diffithe Man's counsenance. There was truly something mysterious about it, yet the Purchit of Ayo-dhya did not reel the presence of any evil in the atmosphere. atmosphere. What he sensed and he alone among the seven, was an aura of strange forced unlamitate powers; a voice, the like of which he had nover heard before, or ever after. And the Purohit who spoke about all this to us will be brought again later to

unfold the mystery in a big way.
One thing was established by now that if he was truly a firmy pail, He was highly materialistic and unusually cautious one. Every movement was carefully calculated with maps on scale. He was a non-man recommaisance party by birth, inclination and training. Before shifting to a new location he took all the detalls into view prior to choosing the spot. The so-called sanyasi was imitating all the characteristics of the historical rebel and the guerrills he was being iden-tified as, almost exactly, by rote, as it were, driving home the fact as k were, driving hom that both these categories of per-sonalities, interwoven, lived with the avowed objective of remaining unknown.
The pattern cominued

the same at Brahmakund, the historio Ourdwara complex where the Man now shifts.

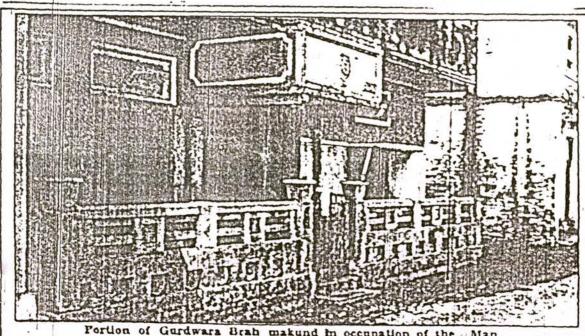
(To be continued)

25.12.85

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Portion of Gurdwara Brah makund in occupation of the Man.

27-12-85

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MAN OF MYSTERY = VII

The lame law lurks

By Nirmal Nibedon with Vishwambhar Nath Arora

AYODHYA. Dec. 26.-One fact was getting increasingly clear. He was a Man with many purposes, unfortunate enough to be unaccepted and unhonoured as a great personality during his lifetime, only after life had left him would a fragment be manifested. He founded no special creed; none dare follow his mystical inwardness, his literary legacy, his historical experiences, leaving quibbling and contradicting souls to ponder over the meaning of his asserponder tions on the political, philosophical and religious planes.

At Brahamkunda Girudwara, his next base of operation, security precautions were taken as before. The owner of the house, Gurubux Singh Sondhi, then already nearing 64, confirmed the peculiar enaracteristics of the Man: "He was al-

wavs in hiding, being called upon by strange people at night in cars of all sizes and shapes, with an extraordinary voice and sources of income which were

As our investigation 'cam, on receipt of vital information, left for Bash, there will be no The Man of Mystery serial tomorrow. We will resume it shortly.

unknown. "Yes, some people said he was none other than Netall Subhash Ongodra Bose", said the retired teacher, who today, along with his wife, runs a private school in the same premises where one solourned the Man. Almost all the disciputed of Gurubux Singh Sondhi were confirmed by this observant children. His tox confirmed to us that among the inany

strange rehicles was a flag car Inf which came in regularly. The number plate of this car was UTC 3817, said the inquisitive ad. The grand-daughter of M2hant Narain Singn, the elder brother of Bardar Singh Sondhi Was Ourubux another foundater who was drawn towards the Man Mas Harpreel Kaur, Jovingly called Lovely, wanted to learn English from the Man. The Man willingly imparted lessons in the English language, the standard of which made the girl spell-bound. Lorely, 23, now an executive in a Bank, recalls the resonant voice, the likes of which she never heard again. Talking to our team at Fairabad she admitted that she was least concerned about the luigations ber granduncle was then involved with,

(See Page 8)

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PRON PAGE ONE

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表现的影响。 第一个人,他们们是一个人的人们们是一个人的人们的人们是一个人的人们的人们们们的人们们们的人们们们的人的人,他们也是一个人的人们的人们的人们的人们的人们的人们的人

trying to get back possessiou of the rooms from the Man, Lovely (OCAL was probably ma 000 stranger to have come nouses. to the Man.

liere was you another DILL Pancis Barrau Mushra, 66, hving in the neighbourhood Gurudwara Branmakunca, who not only observed the Man, but tor sometime, was assigned the oy the lawyer of Basti, Mr. Ourga Prasad Pandey.

Barkau Mishra repried to our queries:

Q: How did you come in contect with Swamuit

A: My in-laws live m Basu It was Mr. Durgs Presed Pate ucy, the lawyer of Basu, asked me to provide care to his Guruji (Bwamiji), who was to arrive and say here in this rented bouse.

Q: This means that you were introduced to swamps by Mr. ranacy?

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A: Yes. Q: Were you a regular yestor to nun michalder

A: Yes. Aumost every evening I used to be with nun.

4: What were the main subjects he spoke on?

A: Mostry spiraual, worldly topics.

Q: Was there any outsion that may have aroused your doubts about his identity?

A: It was never so during his preachings.

But, once his servant nia labourer worthing nearby that Swamill was, in fact, Subhash Chandra Bose in disguise, This calle to my wars and I reported the matter to Swamiji. On hearing this. Swamili was very angry and immediately sacked ine servant.

Q: Who were the main vistors to Swamiji from this area? A: The frequent visitors in-

his family members, Dr. Bancluded Ram Kishore Panda with ter of Mahant Narain Singh of

Hindu calendary. terere. pernaps, occasion | for special VLDICAS, aumource puja'. around seven, used to 00m4 here from Bengal They used to etay in Swamiji's house.

Q: Did you ever come

con-act with any of theta? A: Never, following Swamili's orders

Were there A: Were there any au ans when you first went any auend. to Swamiji along with Mr. Durge Presad Pander

one old Muslim stendart and a young man

Q: How could you make outhat the old man was a Muslim?

A: By his appearance. Also, to each other We spoke 03 many occasions.

Your estimation of his

A: He should bave p.x.a around 80.

Q: Did Saraswatt Devi's son two with her?

A: He would often, or else, Earaswatt Devi would go for a day or During this period, I used EWO. 10 take care of Swamiji at odd hours.

Q: Did you ever mouce anyboor visiting owening as or night

A: xes, once. It was around one a.m. MAL I 10und -00 ignis on once inside Basmiji's room, binte I knew ne nau ... bankering for tea. I prepared sould and went to serve nim. 10 my surprise. inim o.u.ge, newd us and a WOUTHA'S soice emerging INDECHAR! they werd spearing in was alsogeiner new to ma. I could nogather which unguage it was

Q: It is learns that deemilt used to give you new currency notes put in a cigarette packet Way aid he do so?

A: Perhaps, polause I am Brahmin, Ai times, he wo Mould or fifty supers us put twenty cigarette case, all fresh noves

tring in the oarder Curubus Singa for the rate lan leater It is tenton min, -d eajoie the protection of ED. district administration and Da wile Government He ooks not meet y bilows, and Keche Thin will hire of the waliber of the tuoda soota eta attomisti, attoo and source of livelibour TYLO ers a grooty a can-WHO rumours about the credentials w this Same Some 184 LIBB Saint is au great a person MATERIAL STATE SENS PERSONS THE STATE . DO COMES OUT IN PROPER pre-mentily ment pend a borr

LCM HARM IN 1100 COUNTY, WILL the Course administration come out with a convincing explanaton? This was the gist of the

The simple Saidar was helpcent on tempting the fates, as it were. The local aliministration, as represented by the police torce of the area, were furious him on a faise charge. The police officers even unraisened strest hen under the Detence of Irdia Ruks (DRI), 107 to was Emergency days, an as u to demonstrate Lach senousness, they contined him in the pelice s-auon from 10 a.m. to 1 p.m., three hours curing where sand torture, his wrist watch and purse was snatched away in an attempt to silence him as those who had gone before, like the Purchs of Ayodhya.

The Sardar was fortunate ocuph to return in one piece cuzh that night, according to his oth carration at Brahmakunda Niwas. But still undeterred by me suarge events and his fluctuating fortunes, the Bardar moved an applitation to the District Maggirate giving vivid details of the tradeous of the previous But nothing happened, at day. cording to the documents in our possession. In sheer desperation, with the administration apparently determined to give a to the man, security umbrella or so it seemed to the old-fash-

contain next page

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contdo to next page

Gurodwera Brahmakunda, and a school teacher of Palzabad. Only Doctor Bannerjee's family used to go inside the Swamiji's chamber as both belonged to the same community—Bengali.

Q: Did you ever notice if

the same community—Bengau.

Q: Did you ever notice if
there was any occasion of special significance and celebration?

A: During the 'Navratri' days

and threw them our from behind the cinnamos curian But if mere was an incer

But if mere was an incerband and an outer ring of people unconsciously helping the
during his solourn, naving gravped the seriousness of the situation and the grim necessity of
keeping the Man's identity a
secret, there were others who
wished otherwise, not by any
wished otherwise, not by any
sense of spite, but again out of
lear for getting involved in a
conspiracy their minds could nofathom, land chose to univarel
ing depths of the ministration.

For those controlling his security system, it would nemetorin be a path tranght with uncertainties and in inoil. This is necessive the Bardar coose to altri the law enforcement arencies.

For people like the Teerma Puronit of Arodhya, and had a complete naivete and crust in him, and who Cas nad a giunpaof the real Personains, the se-Housness of the si-ustion - Fad yet to be driven home. The Sardar, by an accounts and documents, meant busines. Man miss be exposed This expused to the ou side world. The Barder, Bitte knowing the political clour insome was convinced that some-Man, and he rushed to the nearest au-horales. Ironically. his tears came true and, instead of gening any recressal, he was warned by the police that it is did not keep quiet sout toe entire allair, he would be inviting disusti

From tous episode, n clear, aner continuation nom a dozen people in the area, that there were two categories R people around the Man. The first, like the Purchu of Ayo diva and the distinguished dockeep the identity of the Man a TOP SECRET. AND THE SE-COND. A SUSPICIOUS -LOT SANS EVIDENCE, all reacy to proclaim the true identity of the Man. The Bardar, came in the latter category. In this category nlso came vet another personthe editor of a local Hind weekly. Swapna Rekna, Mr. Karan Singh, who in his issue dated July 3, 1977 tront paged a redated 1977 front paged a report entitled. "Wah . Bant " be roop mei kaun?" A sauni has

ioned Sardar of Brahmakunda Niwas, he ran to Dr. T. C. Bannerlee, of all persons, for help.

ted that Dr. Bannerjee, a man who nad travelled the world, was a frequent visitor to the Man. And so, when the powers that be had failed him, the doctor was the only one he could rush to for redress."

the Sardar. It was a terse warning that the Saidar received at
the hards of the doctor, who
made to sake the mattr any father
through the administration, for
he would be inviting unnecessary troubles in his old age. The
Sardar, his grey matter aroused
by now, however continued to
make written complaints to the
District Magistrate and to the
State Home Secretary during
the year 1977. Pate, however,
scuitted all his studied move.

The Sardar was definitely anything unnecessary storms in his life. He got entangled in yet another legal wrangle under section 107/177 Cr. P. G., in which he was asked by the City Magistrate, why anothed he not be charged for breach of peace and kept under abservation for a year. Here then was yet another personality, unlike the "Teertha Purohit" of Ayodhya, who had, by a quirk of fate, guessed into the personality of the Man.

Yet his unconcious thoughts did not restrain the Baidar (frustrated by then), from filing an eviction suit (No. 2/1977) in the Court of the Judge, Small Causes, against the Man. But was settled the matter most Court: amicably outside the the unrelenting Sardar getting an assurance that the would be vacated.

Interestingly, during the Pendency of the suit, in an application to the District Magistrate, the Sardar voluntarily indicated that some people say that the Man was none else than Negali Bubliath Chandra Bose.

The Man, as sual. Hed in the dark of night, on May 73, 1978, to the deepest cover he had ever sought—to Lucknowa K; thi in Avodhya, vacating Brahmakund Niwas surreptitiously—the premise was fulfilled.

(To be continued)



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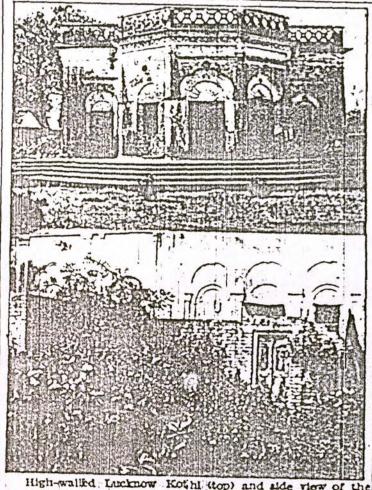
by Ram Bachchan apped four members rwar community to retallia-Mr Dubey addad.

r Dubey said that three dif-nt cases had been rigist-with the poace in con-on with a series of gains between two gangs of mals in the area.

kliled in roup clash

HANDIGARH. Jan. ree persons, including Ama district Lok Dal presi-Her Gurbas Singh and his ther Gurbas Singh, were ed and one seriously in-ed in a clash between two ups of people at village imonri in Ambala district ay, reports UNL

icsides the two brothers Ram Singh, Barpanen the village, was also should in the clash. The inid in the clash. ed was identified as Sukh. singh.



High-walled Lucknow Kothl (top) and side view of the same building (bottom).

Indo-Nep treaty

KATHMANDU. Jan. transit treaty between India and Nepal which expired is March last year but was expinded on was extended ou an ad-hoc basis till December 31, 1985, has now been extended till March, 1989, it blearnt, re-PILI PTI.

Officials here sa A that letters extending the treaty changed recently best between the Commerce Secretirles of the two countries. The transit treory

governs import and exports of landlecked Neukl inrough Indian border and suff.

Business orcles said that as the treaty expired on Tuesday, there was some bottleneck at the border yest frday with the goods not being cleared in the absence of instructions.

Instructions have now been sent incidenting the extension of the treaty, officials added.

The two countries had signed three treaties—treaty of trade, treat

treat of prevention of prevention of trade suctionised trade and treaty traffit in March, 1978. While the treaties of tra and prevention of unauthoris

3-1-86

Man of linystery

close brush the administrat

From

Nirmal Nibedon,

with Vishwambhar

lished about the existence of looking vehicles came after if

Q: Did any saint of this description, in your memory, ever stay in Ayochya?

A: No. To my knowledge, none.

Q! Did you ever see any other saint of Ayothya victing him?

A: No, he lived in perfect isol-

knowledge that he had some regular visitors from Bengal.

Q: Did you ever see people or vehicles coming to Lucknow Roth! In mysterious circumstancer?
A: Yes, at thoses, even fore an-

Nath Arora

as dark Q: What is your

personal estimation of the saint? Was be religious man or , somehody else under the garb of a religious man

Undorstable, he was "k A: a saint. Put from the direction saint lived and the other circumstantial evidence. It can be gleaned that if the Man was not such as the mine. Chandra Bose himself, he must have been one of his close asso-ciates. A mediey of people, by how, were on the provid. About from Pathak. the Chief Priess of Acharya Umanasati. People.

of Lucknowa-Krehl. indings send off the two outer doors the bricks. The building was of

was a verituale tomb. The un's intelligence wing had pre-nted all the dotails of the sur-

ramount importance, the grass d the surrounding growth, was night he came into this solid neture that still stands for all

AYODHYA, Jan 2.—The lone-stone-walled structure of gran-was a veritable tomb. The now-Kothi

To our querries; Q: What do you know about the Man who lived in Lucknow-Kothl, behind a curtain ?

I knew that a "Swamili" of this description was living in the "Kothi". I also heard that the did not like entertaining any visitors. I tried only once or twice, half-heartedly, though. since I did not give much cred-ence to the theory about him beence to the theory about him being Subhadi Babit. It was more
to because so many enquiry commissions were set up and nothing serious could ever be estab-

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myster'y

Nandpati Tracabil having thusands of disc pies tu Amend and osewhore, was als noth in his? KOODING LUNKBUW sight, and ne could do it quite, conveniency for no was living very close to Lucknow-Kothi.

pressed a signal curiosity to to the Chief Pr whough the orthre curtain. This was when the "Teertha Purcha of Ayogaya" had informed the Man that Tripathi's family had played an active role in the freedom struggle, and also that his place had been a safe house for the revolutionaries of yore sneaking into Patrabad from many corners of the country. The Man was impressed by the credentials of a person in this area, who is the sixth descendant of a personality with extraordinary spiritual attunment. Excerpts of our conversation :

Which language did he Q:

use while talking to you?

A: Hind, a clear Hindi with,
an accept bordering on Bengal. How long do the meanly

A: Is lasted half an hour and evening. We had a discussion worship was tace evening. spiritual discussion veering arctind the worship of "Davi was Brahmiku ... The vanue House.
Q: Did you meet him again?
A: No.
Q: Why?

at the production to remained bening the curtain, somenow the meecing did not interest me Q: Did is ever come to your

knowledge that the Swamiji might be Subhash Chandra Bose in augusso?

A: It was when He lived in Bastl. I have disciples over there. They told me that Mr. Durya Prasad Pandey was in touch with a "saint in hiding" suspected to be Netaji. The same Swami-It later migrated to Ayodhya

es of the Man in the small hec.s towa of Ayodnya, at a time when the ente chose to remain sient A member of the fourth estate was also trailing the truth by a journalist, one was could not comman a mere apostator to the scines on in Luxkiow-Rothl.

3c.ngs on in Luxkiow-Rothl.

Once again, the Man was destined to have a cicse brush with
the administration after the Lu know-KothL after the journalist had encircled him with certain painstaking deduc-

Like the lawyer of Basti, Dr. Virendra Kumar Mishra, the young and seemingly dynamic journalist representing the 'Current" weekly of Bombay chose to tap the hot line directly. He wrote three urgent letters to the

seeking interviews and thus Man الم المشين المايان ena nu que was met with no replies "Po-him, would there be no light at the end of the proverbial tunnel? Frustrated, the journalist used

the only course open to him and the only course open to him and the like the Bardar, chose the nearlest authority. He informed the then Superintendent of Police, Sir. Gayaneshwar! Jha in v.vid Mr. Gayaneshwar! Jha in v.v.d detail about the mode of living of the Man, his swift shiftless by night and what the Patrika oy night and what the Patrika team has already unveiled. The main points stated by the amateur sleuth were as follows:

at Some say the Biba is a Gia agent who has got a trans-

mitter for sending news abrusa

b) According to some, Banaji is Subhash Changra Hoe and wants to keep himself in hiding. He refers, to the occasion of Conesh Chaturth that fee on January 23, 1979, saying that Babeirs abode was decked up and the birthday of Subhash Biss celebrated Chandra Chandra Biss celebrated To stress his point emphasised that a feast was arranged and was attended by none other than Dr. Birendra Roy of Fa.s. abad city, (one of the chosen seven), and, of course, the "Teertha Prohie" of Arochya.

c) 'the Basalt comming fam-self to a ring of six or seven men, and apending money lavish-ly (always "using brand new 14 currency noter, a fact confirmed by the "TeiCtha Purchis" of Ayothya to the Parrixa team), leads one to believe that his monthly expenses are no less than Rs. 2,000.

Over the last three years. five Bengalls came to Babai from Calcutta on the occasion of "Durka Pula" and stayed with him for three to four days.

The inner ring of his retie) nue includes the else-a doctor.

a teacher, a lawyer, a political activist and a woman.

1) Though claiming to be a "Dasnami Sanyasi" Brbail is a chain smoker while Dasnami Sanyasis are promitted from Banyasia are

the practice of marauly "Hatha Yog,", Babaji does meditation keeping himself in utter sociusion with the exception that a woman namd Saraswati Devi who is aboved to Serie film Even it is produced that is abadi wants to keep this woman as his disciple, the question arizes as to why she did bot accompany him on his arrival as Braisnakunda Niwas. Instead, she came 15 days later to DA BETTLE - DES - DESCRIBLE.Y search of Banaji. (I'm's was conirmed by the "Teertha Puromit" or Ajounta in the taped incer-

h) Babaji, while BULLE Simnker niwas in 1961, a restcence acquired by one Dr. Gaosh.

sed Dr. Tomar , countered: of Homoeipathy, add adding, that only rarely used. The Man repli-ed that the credit for this knowledge goes to Dr. Muzamdar and Dr. Mabendra Lai Barkar of

Dr. Tomar was not alarmed so far as the growth of piles was concerned. But since the Man concerned. But since the Man had told him that he acquired it due to constant horse-riding for 18 to 20 hours a day, for a long period, the symptoms of the disease had to be treated differently. The Man enquired from Dr. Tochar as to where he had learnt Homoeopathy? The doctor replied that he got his digrees from Calcuta Homoeopathic Medical College founded by Dr. Medical College founded by Dr. Vijay Kumar Bose. Hearing this the Man quipped: "That revolutionary or a Homocopadn".

Obviously, the Man had known the background of Dr. Vijay the background of Dr. Vijay Kumar Bose, who had gone to America in his sunny days to learn the art of making explosives, but returned as a great Hornceopath who is considered the control of the making explosives.

Hornceopath who is considered one of the pioneers of Homoco-pathy in India.

Dr. Tomar further disclosed that when the Man suffered the fracture of his left Fernur bone at leicknow ho hi in 1931 he ordered a Homoeopathic medicine—Symphytum 6 from King &

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00

Co., Cake While at Lucknow-Cothl, there came a turning point in the life of this Man, already suffering from rout he now had a 1811 and suffered a femur frac-

It was the year 1981 when he had to resort to a wheel chair. In his old age, this made him almost dependant on others, Dr. R P Mishra, during this very period too, suffered a- detach-ment of the retina. It was like a multiple injury which the doctor fels, he had undergone A hop-less doctor Misra approached the Man and asked why it was so that the miseries the calami-ties had come together and so simultaneously. The Man. fully composed, consoled the doctor that he should muster courage and take care of him, and that every thing will be airight. The predictions of the Man

The predictions of the Man came true. Treated at Aligarh eve hospital, the doctor came back with his sight fully rectored, but the Man had no relief in so far as his fracture was con-cerned. The members of his inner ring agreed that the Man should be transferred to the city Paizabad, where better medical facilities were readily at hand

A search was once again loun-had for a perfect Incestion once pasin where the Man had to be shifted and, as usual, by night

(To be continued) !!

e complex

th Varinasi but not only with network.

stated Mr Gaiha that Bhadeht would be sport to the dignal tripk connected automatic exchange being histalled at Va-tanas; enabling automatic dial-ling tacilities to Bhadohi subscriters.

Criters.

He said that a plot of one acre had been acquired at Khamaria which would serve provide a relephone exchange in the future to men the requirements of Aural, Khamaria Maharalganti and other close villages in the carpet belt.

Mr. Gatha, however, expressed gray concern over the telephone dues at Bhadohi. He said that Rs. 95,600 remained outstending due from 102 subscribers on account of which a drive has been launched to col-

9

drive has been launched to col-led the dues from the substric-em, and in the process some telephones were disconnected.

Picture On Page 5

I to set up rd buredux

of crime statistics crime records.

In his communication to the Chief Ministers, M. Nehru said "the organised and multifarious activities of profesonal criminals extending agross the Stare and national boundaries have been engaging the attention of the Government for quite some time

The nations | record bureau will function ins a storehouse of information on crime and criminals including those operating at national and interna-

The buscala would collect and ringe statistics at the process national level and supply data to pena and correctional agen-cles for rehabilitation of criminals, their remand, parole, prerelease etc.

It would also coordinate, guide and assist the functioning of the State crime record bureau. ther, the national bureau will pravide training facilities to personnel of the crime remodernise crime relop end cord bureaux rachanda

people wing, wanted to the inter-tine house after climbing a tre:

1) The woman living with

the Baba claims to be a widow. Her husband was wanted by the connection with cer tain criminal acts. The Baba his got a palatial building built for his woman at Basti in front of the district hospital. The house is now occupied by her son, Raj Kumar, and others.

 In addition to the above facts, more clues have been found. Babaji's crockery is an imported set, two truck-loads of goods are kept in his house, there are 15 or 16 big steel trunks, Babaji has never used of: currency notes for any trans-

action.

k) The Inspector of Ayothya
Kobaali, Mr. Zalim' Singh; approached the Baba for making a
ditalled enquiry, but instead became a disciple and devotee himself.

Babaji has command over Bengali and English languages He reads an English newspaper. His expenditure is around Rs 2,500 every month, According to Pandit urkan Mishra of Kaushalaya Chat, Babali used to give him brand new currency notes put in a digaratte case-always thrown from behind the

The amateur sleuth, at the end of his petition, which he had marked as confidential and sent by registered post, demanded a high-level and, strangely, a secret enquiry. He also empha-ised the fact that the Ayothya police, shiuld not be connected

with the enquiry in any way.

This time, the abode of the
Man was visited by none other
than the Superintendent of
Police hunself. But he was unable to break through the close door and the currain which hid the Man from the world. The g P was told, that He was in deep meditation, and a meeting was out of the question. Perpleximently come the new day root. would come the next day posttively. However, the day never came.

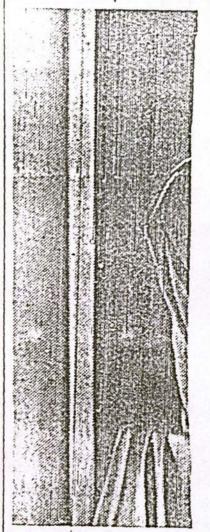
Mr. yaneshwar Jha, The Superintendent of Police marily transferred to Muzaffar-nagar by the then D P Mr. Verma, never to unmast the Baba. After all, the ambush appe was a carefully chosen one.

According to my investigations. another frequent visitor to Luckguished doctor of Homocopathy. Dr. D S Tomar. Ho was the person consulted about Homoeo-pathic medicines from/ behind the cinnamon curtain. Once the Man enquired whether he could use Hamalia & Aesculia 1000 for treatment of Piles, with which the Man was afflicted. A sur-

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RETAILERS : LUCKHOW BAD : RAMILAL RATAN . SHREENGAR, Hotel Me IMA Building, Lahurobir.

chion, the Man change a testabiliting was executed, with prometical care, to his last notive might closs to the city and w to the dear of the dead of Lucation-Routh the Mail moved Once again the FH.Ed. ad. sollic. 1-11011

tor his two soms were in con-Bhavan after a full month of as Kanjialaya. Besides the doc- Others of the inner circle, Man posed position of the courtyard. Man and bad access to preparations in which the ex- already in close touch with the in lace, the Man shifted to Ram rary measures were chreived,

Ut. Mahra's family was now in Puroliit sorely

ultimate refuge

The man of mystery-IX

By Nirmal Nibedon, with Wishwambhar Nath Arora

ed spot of the country, where for all intents and purposes, risk of his security system of a huge garbind of red roses Lord Rama had taken 3al Sa- the doctor of Fairabad was Mr. dictating a letter to the daugh- specially from Calcutta the ceremadhil accountage.

Control' to an extent that even tet o. D. R. P. Manna on Janu- monles were in full swing. Once again all the priciulio- meals were being provided by any 19, 1985 to the Purobit in-12.51 the Mishra family until

I'din

and Nigopom-hand of courts, 1973, since they were braced in which came as a surprise to the hope you are on the path of re- mand, according to all activity girls. Ayodhya, away from Fairnbart Man's other immediate contacts covers. Mr. Dangura then counts lie asked the family It was clear at this stage that But the Man missed this simple present As manal, the Dengali guides a poem of Rabindra members of Dr. Banerlee Preincluding the Purchit of Avo. Nevertheless, the Purchit got Man) has injured his knee seri-dhys, became occasional visi- a special treat on this day, only by an accidental fall. I Ayodhya, away from Fajsulvad. Man's other immediate contacts covery. Mr. SHY : He richord from: Calcutta came Noth Tagora

ing place near the most hallow communicated of the altuation, and work the extreme step at the They had brought with them after the health of the Man

Physically immobilized after came noncer the Man by virtue Riavan well in time with his team later in October this year, the fall at Lucknowa-Kothi, the of the fact that they foo resid-wife whom the Man lovingly Mr. Jagatjit Das Gupta paid his protege. Dr. R.P. Mishra teame town and of the referred to as Yashoda Malya', glowing technical to the paid his protege. Dr. R. P. Mithra information left behind by Dr. None present there knew that son of the soil on his 67th Birthand his family. The doctor's T.C. Banerjee, who was privy this was going to be the last day. Mr. Dasgupta writes that write was dubbed by the Man to his socreta. The other family which was casion'. The Purohit fully un-Roys, and the most regulations the voing but to Ram Bhavan on received by the Man was one contained in the brief message, whose letter was found and derstood the import of the words was from Jagatlit Das Oupla, the forthcoming 'suspicious oc- from 'Pavilra' (Pavilra Mohan Among the many greetings deteriorate And on

(maternal uncle) that he (the

brave son for long. to have the presence of this est son of the Motherland He that this sacred soil gues on to buy addresses the Man as the great that he prays Continues

16, 1985, the fateful day the kieg breathed his last at 9-45 p.m. leaving a plections of questions that may never be more closely than ever before. it was Dr. Minhra who looked ansacred. health continued to steadily But despite this best Since his arrival in Painward Jaioful day the Septem of oure. his

the sudden seriousness the last breach come. minstering unto the Man until the day and his ultimate end condition of the Man during Samily which was informed of mum moor et ul Dr. Banerjee's family remained It was only Dr. 11-30 p.m. Haner be's of the

Dr. Mishra was now in com-ST 74 5

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une link canal. agreement the country instant

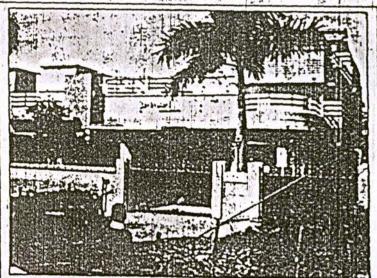
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The front view of Ram Bha van in Fattabad. abode of the Man'

FROM PAGE OND

Man of mystery

sent in the room to leave since such mess he wanted to perform cortain Calcuta? religious rites and take care of A: Dr. things. Dr. Mishra remained in actually in the room until morning—the room containing precious documents and meterlats.

Nothing happened on September 17 1985 only that Dr. Mish-ra floated a story to Dr. Baner-lee and others in the drama that people from Calcurta were expected any moment. But, among the chosen few, the Purohit of Ayodhya Ram Kishore Mishra, was not informed about the sad event until the forenoon of September 18. Hearing the news the Purotik rushed to Pairabad and reached Ram Phayan. Phavan.

It was around 3 p.m. on September 18 a Matador appeared at Ram Bhavan.

account The Rest of the the constant and comes from loyal Teerth Purohit of Ayodh-

Q: When and how did you get the news about his passing away?

A: It was around 11-30, in the incenous of postermer 18, when Mr. L N Singa came to me and said that the Swamiji was no more.

'He also said that the crems tion would be held around 2 day. He soid p.m. the same that if I was interested. I could Bwamiji's lase go and bave 'darshan'. At this stage, I asked who had sent him to me. He replied that a day earlier, he

A: Or, Bannerjee and Dr. Roy
Q: 'Did they tell you who
actually nad sent the message?'

MATT: .

A: They said that k was D: Mishra who had sent it. Besides they said, a tetegram too had been sent (to Calcutta). They also said that a high official had received R and that "his men" were on their way to Pairabad Somehow, to me, it seemed in-comprehensible.

O: Did you enquire about the arrangements for his last rites?
A: Yes. They told me that Dr. R P Mishra was looking after all such arrangements and that the cremation was to take place at Gupcar Ghat.

O: Did you enquire about the arrangements and that the cremation was to take place at Gupcar Ghat.

Q: Did you ask why such a: unlikly place—Oupter Ohalwas chosen

A: Of course I had suzzested that the body be taken to Ayo-dhya as Swamth too had a deep love for the place. But they in-sisted upon raking the body m "Guptar Ghat".

At that time, who was " comman !? Was it Dr. Mishra

or Dr. Bannerjee?

A: Dr. R P Mishra was in full control of the situation.

Q: How was the body carried to Cuprar Chat from Ram Bhanna Talanhad? And secondity. van. Palzabad? And. seco And, secondiv development?

A: Dr. R P Mahra lifted th body and placed k on the Thithir in the courtyard around 1-30 pm. It stayed there undit 3-15 pm. and then was shifted to a "Marador". We were standing on the road when Dr. Mishra | suddenly ordered that as soon as

contd. to next page

replied that a day carrier, he suddenly ordered that as soon as had come to know of Swamilia the Marador cooks of of the passing away from Diff Misora compound that he should co son, Anupam. And u on his own that he was convering this piece of news, for he knew that I was an regular touch with Swamlji, Again I regular enquired why had he held over the news for a full day. Mr. Singh replied that it was be-cause he could not get time to come and inform me. However, collected my family and we rushed to the I quickly members. Bhavan reaching Ram the place at 12-30 p.m.

Q: What did you see as you

A: I saw the body kept on daughter sisting out Mishra's cusido it an spraying some scented material over the body at regular inter-Were vals. People coming in leaving.

Q: Who were the people?
A: They comprised mainly of
the family memory of Dr. Banerjee, Dr. Manra, Mr. Krenna Goosi brivariava and 'Ma Jagdanwi' (Mrs. Saraswati Shukla), and her son. His body was draped in a piece of clock. It appeared to be a bit swollen.

Q: But, how could you make it out when his body was fully covered?

A: From the couter appear? ance. And the people over there also said that it had remained in shape for a day, but then some signs of decay emerged.

Q: Were you sure a was the

body of Swamiji whom you had served for as many as 12 years? A: I was not allowed to un-cover the body for the last darshan'.

Q: Then, what happened? A: I mingled with the people over there. There was talk of a wireless message sent to Calcu-tia and shat 'his men' were expected any moment. Burpelsmgly, it all turned out to be a boax.

Who told you that any

FROM PAGE ONE

Non-Cong-I parties

ther wanted a time lime to be set for presentation report of the Sarkaria the Commission.

disconten aid the The declaration aid the maxing people's disconten would like a mount if proper devolution of powers is not effected my soon. States are not given a unitary due say in the decision-making processes to meet the people's aspirations and is net people's aspirations and 'a peap by true spirit of federalism is not fully restored".

The meeting pleaded that official media like the Doordarshan and Radio should be decentralised and the States kiven a channel to enable them to give expression to this heritage and tion to thir heritage and terripopmental activities "in type with the democratic

was lust and take our seats in the vehicle a conver- Q: Did you not request D-Mishra again to permit you tes his face?

A: Since him, the thought of having his "dirkhan" did constantly haunt my mind. As we were approaching the Ourcar Ohat larea, I requested Manatmaji (Mahatma Saran), to uncover it a bit. But 35 D. M-saras son. Anupam. was sitting nearby. he numed down my request.

Q: Then what happened?

A: As the cremation ime close, Dr. Mishra pis co came close. Mishra's son. Anupam, alighted so as to guide the driver to the exact spot, At this juncture, I was almost raging for having been denied "darshan". I nearly ordered Ray in:3 Kumar to uncover Smamil's tace. He did a bit and I could see his face upto the nose. located swoten

On the basis of whatever Q: you saw of his face for a few moments, can you describe the sailent feature, the probable age and other sum sames? A: His emplexion had turn-

ed pale, his forecessed baid, and the rest covered by white liair.
According to my estimation, he must have been around \$0.

And, so he continued with deep

sorrow and pain as it expressing his double acous, a contact, with the brokers of power: "As we reached the spok, the pyre was almost ready, Strangely, no other related rites were performed. So unusually great was the hurry that the body was not given even a last bath as the Hindu traditions demand. Dr. Mishra seemed so flustered and panicky point he shouted that at a angrily at Raj Kumar and push-ed him aside as the latter was trying to perform an otherwise essential rice of "Sankalp".

Q: Then who lit the pyre?
A: All ten or eleven of us, each being a disciple of Swamiji

Q: What was the time?
A: It was 4-30 sharp. It was drizzling, but the pyre looked unaffected.
Q: Was Dr. Bannerjee only a

supectator as the pyre was burning and the body being consigned to the flames?

A: By now, the peop'e huddled been detributed into groups—each consisting of two or three people. They spoke in whispers only, the tones were hushed, I could not comprehend what they were talking about as I was struck with immense erief. The only thing I said was: What an irone! We are only thirteen here to see him off on the last Journey, whereas, there should have been at least thirteen lake mourners.

(To be continued)

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XXVII No. 5.

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From Nirmal

NEEMSAR, (Sitapur Dis-ict.), Jan. 8—Investigations eing carried out by the Patrika" back-up team were uddenly interrupted by an break-through lectrifying this sleepy township. We ad ence again stumbled on ersons who had observed ersons who he Man closely. .The Man and discreetly moved fom a known as ucknow suburb Dallgani, thadra, P.B. Dallganf, on iltapur Road, from the house on f an elite Muslim sometime Earlier during his r stay at Lucknow n 1956. even-year stay at Lucknow 1950-56) the Man first lived ingar Nagar in Pun-othi situated at the hand of Alar it Shringar jabl Kothl right hand of Alambagh Crossing. Later he shifted to a Shivala on the banks of the Gemal which he had to quit due to floods by midnight once again, for his own security reasons.
was during our i This during missing

Mrs. Shiva According to Mrs. Shiva Narain, wife of Mr. Shiva Narain Sharma, Mahanta of the Shivala temple at Neemsr in which the Man made his headquarters, the Man left this refuge suddenly ou the night of July 10-17, 1962. trucks in a car with two trailing and none being the wiser, for the getaway was swiftly effected with military precision when all the male members of the family of the late Pandit Shiva Narain were out on the occasion of the marriage of a close relative.

chapters between 1956 and

1962

The lady further corrobo-rated that Mrs. Saraswati Devi (Jagdambe Ma), and her then young son 'Raju' lived with the Man, who once again took extreme pains for his security, replacing the web-like gaps in

*/ TER.

Nibedon with Ishwar Das the structure of his room by scheduled

a solid granite wall. a startling dis-he narration of There is a closure in the Mrs. Shiva Narain. The Man chose to leave this location a few days after the un-

visit of a lady who had

'Agarwal

named Leelawati. come from Calcutta with a band of a hundred ladies of the Ramakrishna Misdon. The Man : declined to meet the ladles and the group had

The Shivala temple complex (top) at Neemsar where the Man lived and (bottom) the backdoor of the temple used by him.

to return disappointed, according to Mrs. Shiva Narain.
Of course, the Man left the location soon after, not inclined to let his cover be to return

Sitapur

blown.

in

For Mrs. Shiva Narain, the Man was just a "Purde Wale Baba" (Baba behind a cur-(Baba behind a curtain) and no more notwith-standing the long-sojourn under the very nose. But the Man seemed to have left an indelibl impression on her mind. She recalls ruefully Bhe how her husband had been taken to the police station on several occasions, and even detained for some days. She pleaded with the Man who was hidden behind the curtain: "Please disclose your identity", so that the police would leave her honest husband alone. The man, who had apparently taken the entire situation his wide speak through intelligence network told her not to worry in the least about it. The police officer, who had persistently attempted to penerate the inner perimeters of the Man's life heard of therewas never after .

By then, the Man called this wonderful and trusting lady "Durga Ma". She told our back-up team how choosy the Man was with choosy the Man was with regard to his . 100d, which consisted of the very best at meat. Ash and legg dishes and of course, "Bosogullas" Lalil A man code-named | Talli arranged all these for the Man; none else was entrus-Man; none else was entrus-ted with this domestic task

According to the wife of money orders the Mahant were occasionally received in the name of her late husband. However, she had not

(See Page 6)

JANUARY 9, 1986

FROM PAGE ONE

myster man

notion about fogglest

some noisonous drug in

their 'origin.' Investigations here revealed that the Man came to this location with Mr. Surendra Singh Chaudhury of Etawah, a person who had been a regular visitor until the last at Neemsar. There was yet another lucky break for the "Patrika" back-up team in this part "Patrika" back-up, team in this part of Uttar Pradesh. The 85-year-old Mr. Lal Day Mahant, popularly known as Rama Baba of Kashi Kund. and the brother-in-law of the late Mahant of the Sblvala temple, revealed that the Man had extraordinarily large fingers, and "there was white, curly hair on the back of his fingers", His colour was fair and his body tall and heavily. The Baba used to keep a thick straight stick. He spoted a beard which he shaved at intervals.

According to Baba Lal Das Mahant, the Man was living in the upper floor all alone. The cars streamed in from nowhere, as usual by night, and disappeared. The bare-ness of the compound was also not to escape the eye of the man who himself plan-ted "Amla" and mango trees and ordered the other in-mates to plant more of them, which they did. The place which they did. The place was now invisible from the outside world. Incidentally, the 'place has since been named "Subhash Chandra Bose Park" and a plate with this name has been display-ed at the entrance of this

According to the revelations in this temple, the Man's attendant, Amal Roy, passed away at Neemsar. One month before his disappear-ance, "Durga Ma disclosed", ance, "Dur almost dally at left after sundawn and left after sun-down. The car that came at dawn, left at dusk, and the

K

one that came out before sunrise. Once, she disclosed. Ma sent two cars to Neemsar with a wide variety of foodstuff and garments, but the Man refused to accept them, since he wanted this spiritual personality to present alone, and herself to him

cared not for the things she bought from Hardwar.
The Man used spec

and camouflaged his face with a cap pulled down upto his nose, and sometimes moved in the darkness of night — a hooded figure to the world at best — with the arge stick in his band, (this etick was found in his room at Ram Bhawan — his last abode) towards an old deserted temple.

The Man left without in-forming anybody. There seemed to be no let up in his security system, his disguise and his suspected identity as one of the greatest persona-lities of the world.

A question remains Why is the apartment at Neemsar in which the Man lived for six years, still lying un-occupied in his memory? One thing was clear, the One thing was clear, the man had chosen spots where his astute planning and security consciousness could not be foiled by the simple folk around. He was like a General moving on terrain which he had already received. which he had already reconnotored in military precision after positioning his invisible helpers in strategic places. The holy shrines were an excellent cover for a man excellent cover who ate meat meat, smoked the best cigarettes, a man of the best of worlds, and yet not. An extremely cautious and superior mind was at work In an age in which he did not wish to participate in the counsels of the wise, and yet, kept himself abreast of all that was happening in the world. A highly volatile per armal sonality, emotional to the ource core like the sons of Bengal, mabut above all, a man of l propeace.

It was from here that the Man, after sojourning for six years, left for Ayodhya in July 1962, and settled for some time at Shankar Niwas in Darshan Nagar village belonging to the Ayodhya. which 10 nepnded . D: one Ghosh (initials unconfirmed) through the son-in-law of the Bala, Dr. R. M. Mishta who also handens to be of the same profession.

(To be contined)

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US shuttle

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January 12-The delay shuttle Columbia ik up dawn sky Bunday and into space after a' ri

launch delays carrying

gressman and six cre-

ward space, reports U Running 25 day

life at 6:55 a.m. afty countdown and quiptly

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dy Space Centre.

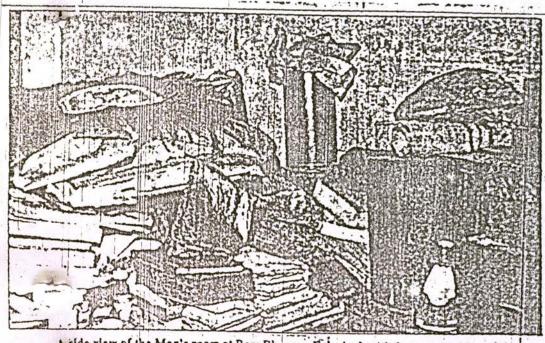
15-launch year of the agency of United States.

At the control were comman-er Robert "Root" Gibson and spilot Charles Bolden. Their

co-pilot Chiefles Bolden. Their crewmater are Eleven Hawler Franklin Chang-Dias, Oroge Nelson MOA satellite engineer Robert Cenker and Democratic representative Bill of Florida, whose district includes the Ken-

echedule.

der Robert copilot



A side view of the Man's room at Ram Bhawan, Falzabad, with documents, files and

From:

Kausar

Husain

with

Nitmal

like discovering a dead-a tuous trail of mud and dust, mix of hore and gloom, essaying into the impossible, and with milestone till distance. Il But, the calamity made the voyage ing the lifetime of the Man no one dared meak, no one ventured into the citadels of the Man. But now, months after the fixeful September 16, the mist of darkness was thinning, layer by layer, so as to unveil the

Upon a beam tocunted the our iprest gation. The tercle of the Man, accepting us us the wonderers of truth show.

except to pry open this once a the Man blimself with doors clover by profession, account hideout. Again only sed and windows fully screened. Rishore Mistirs. erried hide out Again

PAIZABAD, Jan. 12—It was when the man was dead. The Although living in sortary condiscovering a dead—a torlegacy inside remained within tinemers of rooms, distanced
out trail of mud and dust, a view of a selected team includtrom the outside world, the emtrail of hope and gloom, essaying a member of our back-up phasts was more on hiding his ing a member of our back-up force at Fairabad for full four days.

mystery covered a time-cycle-his arrival in Lucknow from Menal in 1950 to Oupray Chai 1985 when he was cremated— evidences collected at Bazpur, Ayo-dhya, Basti again as Ayodhya and lastly at Paizabad covering a span of lone 35 years suggessecond phase of ted a consistent pattern of his on. The channed living—moving from place to dan, accepting us place, selecting desolate and abandoned places from the prob. Bharan, the wonderers of truth show. abandoned places from the proof that and the proof that the proof t

force at Falzabad for full four identity by marking his face days.

In earlier chapters, the first scarts or monkeycaps. This has part of our forays into the high been corroborated by all, and his face mincry-may she be Mrs. wife of Mahant Marain Shivalays of Neomar (Slapur) to 62 or the persons who still stridly recall the extraordinary mreumstances in which the Man tred at Shanker Mans Laj-tomi. Prahlad Dharamshais. Brahmakunda Gurudwara, Luckcow-moth and lastr, at Ram

Nibedon ato watched the Man for years, Panda Barkan Man for 12 years, Panda Barkan Das Acharys of Umapaul Peeth Buly Nand Dati Tripathi or Ram Bhadra Pathak of Congress I all are unanimous in their observations—that the Man lived by a system

molation exertaining . conti a few confidence. And even dis couraging them to make and conjecture about his identity anoth prohowing Demons talk about his existence

The impression of the simple, rustic folks or the intelligent few. who saw, came chose or observed the Man is that the Man shifted from one place to another during nights in cumbind are and

1 part, Lebel, FROM PAGE ONE

13-1.86

THE MAN OF MYSTERY

carra used to Join him parties. English, Bengali and Sans larly around January 23, Nave on the he was head-to-beel matri and Durga Pulq, that un-worldy man engrossed with a usual activities were sainessed dans awareness and jet so

acmembering so minutely the will have to dissure the personadissure the personadistribution of the wife of late there the evidence of the personadistribution of Mahamit of the who have had close touch with
distribution of July, 1962, when itilishing the events quoting dates, years and the reason for cemembering so minutely the the month of July, 1962, when the Man silently left the place, reason she recollected a mark mage party-was to roturn a-day later. Purchit Ram Kishore Mistura ways it was Dianteras "Kishore

astonishing.

From any judicial standards, interrocated him at Carbeta on the evidence of these independent with the evidence of these independent of the Man.

The second set of witnesses truth can not be discarded. Who are in a position to throw higher on the identity of the Man for Ram Kisnore Brukla wind are firstly Mrs. Fushos Banner, has been close to the Man for are firstly Mrs. Fushos Banner, the widow of Dr. T. C. lianner, about 12 years—1974-B5—can not be widow of Dr. T. C. lianner, the matter that we may for a ment of the Man and had the privilege to enter matter that we may for a ment of the Man and had the statement wherein he said this occasion to see him face-to-face one day at Brahmakumda Gurus during their visits to Arochus. contenent wherein he said this to see inm face-to-face one day at Brahmahumda Guru. For a long period of 10, Jears dwara when me Man was sick, and Palrobad and pass hours of T. C. Bannerjee in a highly of the in absolute privacy. Be emodonal vein, confided in Plu Sides, Mrs. Purps Banerjee her that the Man he bad the privacy of Dr. P. Bannerjee her than Bunnash Chandra Bose. We than Bunnash Chandra Bose. We than been meating the Man fremay reject this part of evidence quently observing him from a ground that k is in any case a Third on the first period defence hears of vidence. hearmy evidence, as also due attnesses comes Purchit Ram nerice is dead and this state of the State of the Pland Baba' ment can how he had this state of the Man Baba'

medding crowd in uner secrecy with his reality cloistered. Pre- Devi South without Manager M

worldly man engrossed with mundan: awareness and fet so far. such as special Interested in national and interon Japuary 23 such as special Interested in national and interpretarious freedom prayers, feast and bouquets of national affairs—India's freedom red roses brought from Calcutta, struggle being his favourite subdistribution of sweets among ject and this having been amply the scientification of sweets among ject and this having been amply the scientification of sweets that proved by the casual talks with hid a mark of other city. The his selected wistors and the Corilled by our investigation trunk-loads of books found in team, more simple folk or his room. The clippings of Engintelligent few stood to the cross-lish newspapers found in his examination to the hill by recap- room show, occasionally, his intilating the events quoting comments on the editorials.

to him.
The first who comes to mind
is Dr. Parkra Mohan Roy-s
man hearing his hinesies living
in the Damdam Park, Cakut-s-Mishra ways it was Dhanteras once an important impulsonary in 1974 that his Prahlad Dharm of INA Roys Imk with the Man in 1974 that his Prahlad Dhaim. Of INAL Roys link with the Man shala was acquired by Durga has been detected in his numer-present Pandey of Basti and that outsitesters and telegrams. Later the Man celebrated Deepawar lound in he room of the Man in his Dharamshala that year and lumber strengthened by Dr. Their case and exactuate as Pooys admission of this fact to astonishing.

nerice is dead and this state or the Man who had known ment can hot be confirmed for about the various facets of the corroborated.

Bo much about the Man's passion of 12 years. Some of his despisition are on secrecy about his tions we have carried in the exitientity.

Then who is this man who is to bringing our vital unforwants to live ways from the mand on about the Man.

The fourth withest is flarward.

madding crowd in uner secrect in The fourth witness is Barasway with his reality cloistered. Pre Devi South (Jagdambe Ma) who

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madding crowd in uner secret; The fourth withess is Errawa'd with his reality cloistered. Free Devi Enuths (Jagdambe Ma) who serving himself as a Dakhami erved the han not Hot 35 years and has had he and, opported from 'Sadhan' unhampered. A close soruting of eridence will show that the Man was instead on the han has had the and, opported the was a saint although he was a fixed to great Intellectual pope man of great Intellectual pope was devoted to high pursues yet they fee not metaphyzical or religious for the Man possessed and displayed a modern outlook may kee his food habes or darked who knew of a virus codica of religious for the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the Man possessed who knew of a virus codica of the possessed who had not be their codern and the possessed of the poss WAID dne TEC CIT d

feedback

From S. Kausar Husain, with Vishwambhar Nath Arora

single factor—but very crucial in itself—yas that Dr. Pavitra an important lunc. Mohan Roy. Honory of the I.N.A, maintained close coptact with the Man. close coptact with the Man. This led us to probe more deeply into the personality of the Mun whose prime concern for the last 35 years, which he passed in this state, was to hide himself from the outside world. All accounts we have confirmed that people from Calcutta used to come around January 23 to participate in some functions being held regularly wherever the Man lived. This, although was circumstantial evidence,

with the Man can be understood Pavitra Mohan Roy and Amai went to Eigh Street to fatch Dr. only if we first study Dr. P. M. Singh headed for Calcutts Eose. But, as Ill-luck would Roy himself. One has to be a surrepulliously by night. have it, the doctor was in with the Man can be understood Pavitra. Mohan Roy and Amai well to about 5000 only if we first study Dr. P. M. Singh headed for Calcutts Eose. But, as ill-luck would Roy himself. One has to be a surreptitiously by night. have it, the doctor was in man among leaders to become it was imperative for them to Haiaribagh. This put Gill on the proverbla such person was Roy, the Street. But how could even horns of a dilemma. What was advance guard of legandry nen there highly-skilled man slude he to do next? He decided to like Amar Singh Gill, Mahladca, the British secret service, which meet Netall's mother. But this Singh and Tuhin Mukherjee—had encircled the place with a sarmed Haridas Mitra, a Mitra all played down by fistory.

They all had received becret even allow a fly to pass through being inroduced. Oil broogr

They all had service" training

was a strong pointer towards the bialaysta. They left their sub-only way out was through established to the Man.

Dr. Pavitra Mohan Roy, now and scottered like toxes to Bose, Netall's brother, A cover, in his nineties and living in different parts of the country, operation was in the offing, Dum Dum Park area of Cal-while Mahindra Singh moves though & boomeranged. Roy cutta, had a chequared career. towards the Punjab, Tutin boomer a patient, resting in The importance of his confact. Mukherjee left for Bornbay, the Khidirpur area, and Gill are to Management and an analysis of the Dr.

all had received secret even allow a fly to bass through being incroduced, training at Penanu, the intricate network. So, the Bee Pag

FAIZABAD January 17-One was a strong pointer towards the Malaysta. They left their sub- only way out was through estab-

See Page 6

Hana Mandikova and Pam Shri ver, also chalked up victories.

Marklikova of Czechoslovakia.

meded second, needed 1 hour to minutes to eliminae a determined Melica Gurney of the United States 64, 6-7 (4-7), 6-1.

The thirdeeded Shriver, Navratilova's doubles partner, ounced Italy's Sandra Cecchini 6-3, 6-0 Fourth-seeded Claudia Kobal-Kilisch of West Germany won by default. won by default.

nor coer at 13-7, 13-8. rears so so Chau asia ti In the under 12 years group final Ajat outplayed Rohan Ro in straight games at 151, 17-15.

In the men's singles, Rajiv Ghosh beat S. Verma at 21-8 while Manoi God beat Pradip Sharma 21-73.

India 6

NEW DELHI January O The inaugural India Gold Cup International Football Tourna-ment for women will be held in Lucknow from March 8 reports PTL

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FROM PAGE ONE

The man of mystery.

group every hem. Q: Do rot "The zero hour has arrived." 83a Pandey? This message was relayed over a transmitter to their hide-outs in Dhaka and Calcutta, But the move had been folled by them. Police had arrested Malundra Singh in Punjab who had con-lessed to being a representative Police had lessed to being a representative of Netali's secret service from Penang. Later, he felt guilt over his "treachery," And committed autolice. his "tr

Mahinder Bingh's confession. however, proved cootly, leading them to us.
to the arrest of Jyotish Basu A: Ek Do Chiththi Aata The, and the seizure of a powerful transmitter from the possession of Haridas. P. M. Roy was stay-ing in a hotel in Puri.

A trial (in camera) was held in a Camac Street house. Tuhin Mukherjee rurned approver. He was let off but Roy, Jyoush Basu and Haridas | Micra were given death sentences. This was nothing new. In a bid to keep relationship the Iwo "Tronts," Satyen "Vardhan, & Anandam, Faul Bingh and About Qadir, too, had laid down their

Besides, some Bangall youth, including Man Kumar Basu, Thatur N. K. Day, D. 160ychowdhuri, S. K. Mukherlee, N. Barua and P. Chakravarty of

he sent a letter to Maharajan activist-which stated: "I am activist—which stated:

must be ready for the assault. If never saw him?

Finding a heap of letters from Q: You have heard the voice pavitra fiolian Ruy at Ram of Netali and Swamili both. Bhawan, more than one-and Was there similarity between half months after the cremation the two?

of the Man at Guptar-Chat, the tale (Bilence).

authorities at Fairabad wers Q: Was Swamili a Benealt? compelled to inquire into the A: Yes compelled to inquire into the A: Yes for deny that he was investigating officer was sent to not Notali?

Calcutta to interrogate Dr. P. M. A: Kya deny Karcya. Ju Roy at his residence on Novem-Hampy Bolna. The Bol Diyaber 5 and 5, 1985. Our man at (What is there to deny. What Calcutta, Mr. Milhir Ganguill of ever I had to say, I have Jugantar, was all the time pre-spoken).

Haridas to Khidirpur house. Nahin Samihey Ki Woh Netaji Haridas Mitra and his wite, Hain Ya Nahin. If could hot Bela, joined by one Jyotish decipher whether he was deciphed as decided to extend the or hot.

group every here.

Q: Do you know Durga Pra-

Q: Durgs Pre Prasad Pandey dead surs that he was "Netali."

What do you have to say?

A: Durga Prasad Bol Haln. (Durga Prasad is 13 10 m posidoh'to speaks.

Q: Where did you your letters to Swamin?

A: Through Dr. Mishra Q: You must be having letters Please | mow from Bwamju?

Nahin Rakna, Phenk Diya. received a letter or two, didn't LWBY !.

Q: Who was hav

How long have you been out of touch with Netali since

A: Since 1944 Afterwards, 1, remained in | Jail | ell Indepen-Coint.

Q: Articles relating to Netaji have been found in large numbers in his room (at Farzabana

What do you have to say?

A: Kol Bolta Zinda Ham,

Kol Nahin. (Some say he is

alive, while some say he is dead).

Barua and P. Chakravarry of Q: (in anger) What does your the coastal area, were nanged mind direct you to say? Inside the Madras Fort.

Roy was not desured to die Se Kya Fa da Hal. (What me in this manner, but at the time the point in what my mind he sent a letter to Maharal—an

Q: Were you ever under an not alraid of death. But Netali impression that he might be?
has declared war and you all. A. Hum Rabhi Nahin Dekha. II never saw him)

Jugantar, was all the time pre- spokent Q: So what are we supposed gent there. The laned conversation is at in do now 1

to do now?

could to next

could to next page

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in

1t.

follows : follows:

Q: CBy. Investigating efficer. Hai, Honey Do. 1As things are A letter addressed to Jagalit happening now, let them happasgupta of Calcutta, wishing penl. The investigators hope that 87th anniversary on January 23, these tapes, which are in the has been recovered from the possession of the Government, room where the Swami lived in are not erased during the production of this serial about the Faizabad. Do you have anything to say, in this connection?

Pavitra Mohan Roy: I lever course," was ret another inter-heard this name [J. J. Das-gupta). supta).

ral times. Before living in for as long as he lived to this Nepal. ral Nepal . .

Q: When did you first come

In contact with him?

A: It was when I had heard

that a man living in Basti was

q: Your

A: He wanted to know what evening.
was to be done with the belong in Enumeration
ings of the Man

A: Abhi To Jalsa Mack Hora

duction of this serial about the Man. "Let things take their own pretation of the last sentence of this man at Calcutta, which, we Q: How did you come in con- deduced, was the Mr. Control tack with Swamiji (the Man)? of the entire operation around of the entire operation around

(To be condauch)

(However, actording to his earlier version, Paviers Mohan Roy the exercise in many of the used to visit the Man to get remaining 52 villages for de-medicines) Q: Your innumerable letters aceas to be transferred to and telegrams, some of them ex. Haryana in Heu of Chandipressing your good wishes on garh were trickling in, the January 23, have been recovered Punjab Chief Minister. Mr. from his room. Now, are you sequented with Dr. R. P. Surjit Singh Barnala told acquanited with Dr. R. P. newsmen here tonight.

Mishra? Enumeration work in vil-A: Yes.

Q: Did Dr. Mishra's son visit be undertaken today as Asyou at the time of the Swami's sam Rifles personnel who ueath?

A: Yes, Anupam Mishra came Gwahati for accompanying here along with another perwith the Punjab police had son.

Q: What did he tell you?

A: He wanted to know what evening.

was to be done with the belong-in Enumeration work could ings of the Man. In not be completed in village Q: Swamili's handwriting tal. Warpur as a section of the lies with that of Nersii Plazes people refused to cooperate tell clearly whether he was with the enumerators on the Netsii or not?

A: He did not most me. I survey had already been done used to go to Basti even. Hum yesterday. work

66 Hinso

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From Nirmal Nibedon with Vishwambhar Nath Arora

FAIZABAD, January 18-The ght has lapsed but the leracy emains. The afterflow will stay. is deathless Here, yoked with alsed questions longing for no near 2 reply. Mere counter-uestions to blune pointed quesons do not matter.

Gaping wounds are to be can erlsed Being a doctor, R. P. tishra, belonging to the inner ircle of the Man and keeper of is mortal remains for two full ays, must be aware of this all but he is surking, indiscreedly ishing out half-caten words ast no one can stomach.

our querries the taped To aclies :

Q: What was the reason for the terribly hurry shown at the of cremation at Guptier 112:12

ciples were awaited the next

At (After a pause) At Paira-

Q: Did you send an emissary in 1983 or even after that as it to Calcutta to call his men? was then only that Swamiji A: Yes, my son and one parcame to stay in Fairabad? son had left for Calcutta to inform them.

Q: Please tell us the names Q: What was the hurry at cf his disciples at Calcutta as the time of cremation?

We want to meet them?

we want to mese them?

A: No, there were 19 people

A: Dr. Pabitra: Moran Roy, present (Actually only 13, per
Dum Dum Park, Calcutta: sons were there, according to

Q: Was he an important our investigations, and if there

Link in the chain?

A: He dies on September Q: Where-at Fatzabad or A: Do you think such a 16, 1985 at 9:45 pm. His dis- Ayothya? dynamic person could: I mean, it was local rumour.

> Q: A lot of people came t man's 7

A: I don't know much Q: Why was such a grade man never willing to meet peak like other saints do?

A: Meditation in uself is a search of (one's true) self. In long spells, it can even extend beyond life

Q: Did be trust somebody? A: He trusted everybody, who were visiting him.

Q: Is it true that certain

police officers and Intelligence

BEE PAGE 8

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FROM PAGE ONE

pa 16

der

The man o

men came to aik you shout use the belief of a cross-section facts regarding the Man? It of the society that he was A: Los or people-came from Netaji?

civil and police circles

A: I do not know how if

راء المستخدم

Q: Why did (they come to A: I do not know how if you after the tremanon? I spread. It is they who can mean to say why were toer not answer who had apread it interested when he was aure? My interest was spiritual.

A: This question areas for everybody including all of us present. Your co-investigator (V N Atora) himself knew about his presence. Why did he not depth of this personality? (I decect a twinkle in the eyes of this seasoned doctors.

Q: What was the age of But-

A: About a himdred years

Q: As a doctor, could you make out the approximate age?
A: I did not see him. I only essw him at the time of

death.
Q: Was his body STOWING

A: Yes, naturally. When death occurred, we wanted to preserve the body for some time death occurred. imtil the arrival of Dr. Pabitra

Mohan Roy.
Q: Why (Dr. Roy) could he not come?

He sent A: I don't know. me a telegram that he is ill and doctor's advice to him was not to move.

Q: Doctor. Who was he! A: That I do not know.

Q: What was his (the Man's) nama? Where was he born? What was his nationality?

A: He is an Indian and Salva perconifed: Lord Stava himself. Q.: Sir, we are writing for a very materialistic world. So without going into the Shira personified, would you please describe his personality from the

human point of view?
A: I have known bim as bighly enlightened Sanvad. This was good excount for my currently. I was fully enterted that

he was a Dashami Sahrad'. mich a high order, then whi 52317

A: He had once expressed that his body be disposed of in this manner.

Q: Had he already given such explicit instructions?

Q. What did you dd with

his ashes?
A: It is kept at Ram Bhawan

Q: Why such a lot of material on Netali has been found in the room?

A: I have not seen the material When I came to know 11. that the authorities were very keen to prepare the in-ventory. I emphasized that that, a he was a great 'Sanyasi' so the sanctity of the place and st tained as a mark of respect And I have handed over keys to the police authorities iteling them that they authori-01, could do whatever they liked I have not seen the material myself, but I know (how?) that he had a very good col-lection of mostly spititual and allied subjects. I never and allied subjects. I never went inside, so I don't know what he was keeping.

ed.

E

crepancy (on purpose?), in the narration of the distin-118 guished Dr. Mishra. No wireless message was ever sent by him He referred to so fr maby followers' involved in the the hush-hush affair of the Man. Why was the adminis- in tration so close on the heels of of this doctor? Why were p there so many contradictions in his assertions? The Doc-tor was sure that the Man had a "good collection" of had a "good collection" of material relating to "spiritual and allied subjects" but he feigned complete ignor-ance about the other material locked up in the black trunks; left behind by Man. We come to them later. And it should be remembered that on the 16th night (the day the Man died) the Doctor was all alone in the room after the Bannerits were ask-A: It was, of course, his mes- ed by him to leave.

(To be continued)

contd. to next pape

A: It was, of course, his mes-Q: In the Blegram of the last & killed Pablira Mohan Roy expressing A: If you are very keen Bakaro blast
the Telegraph Office. I did not keen x. When I am saying that I received it, it is more than a nager, were killed and 19 others proof crops.

Q: On what date; did you mere intend in an explosion in receive this telegram?

A: I don't remember the an official spokesman said, reports PILL

date. And we sent two, three telegrams. One telegram of serious illness, and one of PROM PAUL ONE death was sent; When they could not turn up, we sent a India, Pakiston rkis in your possession?
A: If you are very could not turn up, we sent a telegram again.

Q. Reports have it that a early release of civilian dewireless message was also tainees, along with the missing defence personnel, would be discussed during the succommission meeting to be held from February three W telegram again. me.: There were so many followers... Our "cpurpose was that people should be informed. Somebody told me that he would manage a. wireless message.

Q: Who was this person?

A: I don't remember.

Q. You say so many followers were there but, as I have gathered, only a small group of people were allowed to talk to him.

Q: I am sorry to repeat the question. How much cre-

dence do you really give to

A: No. you can say

that

much cre-

19-1-86

killed in

India, Pakistan

to six

An indication of progressmade in reconciling Pakistan's draft on a non-aggression pact and India's offer of treaty of peace would be available to morrow.

The Indian Foreign Georetary will be the guest of the Pakistan President, Gen Zia-ul-Haq, at lunch tomorrow. He is also scheduled to call on the Prime Minister, Mr. Mohammad Khan Junejo, Foreign Minister, Sahabzads Yaqub Khan Lunejo, Foreign Minister, Sahabzads Yaqub Khan the Planning Minister Dr. Mahmubul Haq and the Minister of State for Foreign Minister of

very few people were curious to know about him when he was alive. Nobody bothered to know about him or his philosophy, or his way of that the current round talks on merging the drafts is likely to prove conclusive in view of Paltan's objection to Ind. 01 insistence on the

FROM PAGE ONE

thinking.

Meanwhile, eddresdry & Press

The of mystery manis

Nibedon, with From Nirmal Vishwambhar Nath

FAIZABAD, Jan. 19.—If 'He wise such as was He' then the world could lost in solitary not be forgiven for forsaking the Man. The curtain now was slowly being lifted for us to see such a sordid spectacle through the eyes of one who had come closest to him in his dying days. She serv-

Had Saraswati Devi Shukla called Jagdambe Ma stambled upon his identity? On the surface, no. 'Prople sald he was Netall but I do not know. I was here only to serve him, and in the last days to wash him and his body, and keep ing him alive'.

To her rustle mind appeared many a noble thought, and in the last days, she translated all her courage before the ailing Man in words that could have been swamil, the world needs help and solace; we need you through the turmoil we are identity of the Man, passing. Is it right for the She gives me time

wise such as yourself, to beflection with her piercing and ost in solitary retirement; vacant gaze, taking me to a Dasnami Baba7.

A quirzical expression prosses her face as she continues with her narration. Once when he was in deep pain. He told me that it was useless and futile to discuss ed the Man since his arrival his past, his involvements...
in Lucknow from Nepal in a pause follows and then she
1950 croaks forth another sentence, but its meaning seemed secret. CMy jotting this part, mysteriously jottings of nished).

In her personality a rare strength, and a deen sense of purpose. Her voice is harsh, but simulcaneously feeble; her words emerging alowly; and with great difficulty. Is it possible that this aged and decrept figure, this haggard and huddled person. and clutching her stomach weeping (there are many witnesses to this episode). had come across the true episode).

She gives me time for to

vacant gaze, taking me to a wilderness of doubts and uncertainties. How true it was.
It is not always easy, nay it
hazardous to read the scripts and words, diszerned in the spirit, by the bold letters inscribed on too body.

About the Man, she firmed every aspect of our investigation, for what it was worth, hiding little yet no-thing. At the very outse; she desired to talk to me alone, and I immediately conceeding her request, asked my coleagues (V. N. Arora) to wait outside, lest she changed her mind. It seemed, ahe was forcordained to all at this juncture. For she confirmed the foreign connections his entry from Ropal, his links world, and his swift movements in tell all, reveal juncture. For a ments in the sub-continent

See Page 6

FROM PAGE ONE

1 1 The man of mystery

chronologically, but without not eating any food the dates and the time we so saw me crying before dilligently sought and had but can he see my tear already gathered so forte. Continued the wom

'Let all come out, however. foul and vile it may seem', it the nearest Interpretationi to her Hindl dialect. We had forget our shame', lamented, while narrating the incident at Lucknowa-Kothi when the Man Ieli down and had broken his bones. Till then I had never seen him, never come close to him physically, and face to face. We had no atternatives. I looked upon him and his needs like a mo ther towards a child'. And so was also the Man's feeling to grant me ful! ... tu

warned that continued con permissable, ostensibly cause of her great grief and enfeebled condition is police platoon was guarding her house by then and the my-riad trunks within, for God knows what reason. In level of the personalities known close to the Man, all were hiding the vital facts of the case holding back tho impossible as it were.

'Although my father, Maof his existence from the Nepal days and had brought me to him. He never lift-him even his face, never liftto him. . He never showed ed the yellow curtain', sald weeping bitterly, clutching her stomach, bringing one or two members of the lice picket into the verandan of the last abode at Ram Bhavan... He never re-realed himself even to me. she cried in sheer despera-The last she fould not fathom.

? I could not even pick him up, she cried, and say anything to him or question him. Although in pain un question explainable and unspeakable. said the Man tersely to her! I will clear the path for you. You will have everything: 1 have nothing: 'I cannot carry anything with me'.

ing and walling): '... Even if something else happens what can I do? I am now pie I never saw came and mad with the world; I live troubled me. Go your way anly in somow.... My and may peace be with you! Himbs are not working, I am (To be continued) limbs are not working. I am

100d .. Him

but can he see my tears now?
Continued the woman in grief, one who had come grief, one who had come closest to the personality, the Man: He did not even show his face to my father, who was his closest disciple at Lucknow initially, and who Lucknow initially, and who had instructed me to look after the man, but ask no questions whatsoover about his identity. I heard many things unspeakable....

Distinguished people came to meet him by night I do not know their names, but they were ivery important people of the society. He never told me anything; he maintained my silence.

We had already been fore- with 'Jagdambe Ma', the next meeting. day in the morning, she closed: The persons cl closed: The persons closest around Him said he was none other than Netall Bubhash Chandra Bose As for me, a mere server, I only know that he, at times, shoutel for my attention to under the door Enows what reason. In attention to unbar the door trospect, at every stage of the investigation at every chair (made by Mahatma level of the personalities and lake him in his wheel-chair (made by Mahatma bevel of the personalities aran) to the toilet. Today, known close to the Man, all I am left alone weeping and wailing to tell nothing to the world about his personality, this sufferer in his dying moments....

> The once closest to had been studiously kept away from the leaping flames at Guptar Chat on Invostensible excuse to guard the treasurers of the Manthe myriad trunks in that forion room. She obeyed until the last. ple and rustle mind, the Man had thought of everything. (The security system remain-ed steadfast until the last puzzling the administration until this day).

Once again, it was getting clear in the maze, that I was irropassing on forbidden trails, of this, I seemed almost certain, although my directed and speculations were only surface scratch speculations scratca. ings of sorts. Yet, she said, before I departed. 'People like you are here to reveal the wonders around this Man'. With tears in her blank eyes, she said. I do not know your istentions. Peo-

mystery He talked of Germany,

Arora 1 Vishwambhar Nath Nibedon, with From Nirmal

FAINABAD, Jan. 20. For the constant and loyal Teerth Purchit of Ayodhya, Ram Kishore Misra, the mystery was more or less clear at Lucknow Kothi itself where in 1980 be one day commanded courage and asked the Man how long he would continue to the courage of the courage and sked the man how long he would continue to the courage of the courage and asked the man how long he would continue to the courage of the courage o tinue to live in oblivion. Fast tinue to live in oblivion. Fast came the reply — two years more — and when I will come out it will be I only who will prevail. Jab hum Bahar Ayenge To Kum Hi Hum Honge" was the cryptio reply. During his 12-year association with the Man; the Purohit had the occasion

observe the differing to observe the differing shades of the Man's mood, but kept to himself the observations the Man used to make from time to time. Once the late Dr. T. C. Bannerjee told him that he was lucky to have the previlege of serving Subhash Babu. But the Purohit had himself tried also to reconstruict the to tried also to reconstruct the great personality by virtue of the bits of disclosures the Man used to make to him. In our earlier chapters we have extensively quoted this Purohic. We are bringing him in once again as he is to reveal some very useful in

formation leading to the 'd

entity of the Man.
Q. Was any hint of their
(the people who came from
Calcutta) identity ever given to you?

'A: Not pointedly. But once the said that they were his men' who ran his affairs

They were big guns.

Q: What was their normal

period of stay?

A: A week or so.

Q: What were the subjects
he discussed with you during
this decade-long association?
A: He mostly discussed
spiritual things. Sometimes

he used to speak on medi-

cines. Once my daughter fell ill. It was only by his grace that she recovered Broadly, we covered a wide spectrum of subjects, includtug the serene Himalayas, a Tantrashala' in Tibet, and even Russia and Japan. He was the ultimate in choosing a subject and theme for discussions. He always referred to himself as 'Yeh Sharir' (This body). At times he would say that 'this body' is a widely travelled one. Q: Can you recollect

Japan

See Page 6

FROM PAGE ONE

names of the countries he supposedly are kept

preferred to talk about?
A: He talked of many places like Germany, Japan, Tibet and Burma, and, course, the Himalayas.

Russia, I mean, any period of time spent in that coun try?

21-1-86

A: In fact, I never imagined that I would have to talk about all this one day So, I did not keep that much in my mind.

Q: Did he ever discuss about the political affairs in our country?

r A: Never with me at least Q: Or about the conomic situation?

A: This kind of thing nover discussed with me. But once he said (during pone of his discussions on the super-natural, that the skylab was not going to fouch India and so people here should not worry about any calamity on this account.

Q: Did he ever discuss in-

ternational politics?
A: Just ensuacy, while referring to newspaper reports, He discussed the communal riots in Kashmir and Bengal at the time of partition. And he seemed quite saddened, for he said, the true independence had yet to come. He said that one of the orbeen cut out. The period of partition pained him.

Q. What did he say about

A: He said, "this body nad been to Gyangani Tantrashal' in Tibet where Yogs of incredible age running upto 500 years in some cases, perform certain rites on dead bodies,

Q: Did he ever reit: to

any plane crash?
A: He put it in this way that the plane in question never took off adding that the log book of those times, if checked would rouch for this fact. The person in ques-tion, had in fact, reached a destination even before this announcement was made.

Q. Did he ever dwall on

this subject?

Indians go to pay their flo-ral tributes where the sahes

MYSTERY

aaj tak Bharat ka altigya ya Bharat ka tak Bharat ka koi Raj-Neta un a.th.yon ko lane ka praet and Burma, and, of yes nahin kiya ki hamara ourse, the Himalayas. nets ki asthi yahan rakhi Q. Did he ever speak about hal isko sasamman hame cussia, I mean, any period Bharat ky chalna chahiye, I time spent in that coun which means: But none of the political leaders ever in a line of the political leaders ever in the country? nor did it occur to anyone, should be taken back to In d.a with due honour.

> In which context did this reference crop up?

A. Just very casually as he price said that Indian people were striving to get back the 'sword of Maharaja Ranit Singh and the Kohi-noor (diamond), but no one had ever thought of bringing back the ashes of their leader.

Q: How did this discussion Degin?

A: I cannot remember actly how it commenced Moreover, none of us dared to choose the topic of discussion or cross-question him

Q: Did you ever notice that January 23 every year was being celebrated as a special day?

A: Yes, I was somehow an occasion for 'Puja' and a least. A few people would come from Bengal to attend the celebration. I and my wife too joined since the time, it came to our knowledge.

Q: How was the 'Pula' per-

formed?

After the usual rites. A: we used to offer him, through Ristall', bouquets and sweets He would accept the flowers and return the sweets to be dirtributed among us. wides, Biataji' would a be only Tilak' on our Beapply

d: What kind of garlands were those you affered to the CARL

A. We used to bring gar-lands normally available in the market. But his men from Calcutta used to bring garlands i of red roses. Re-sides, Swamili himself emmides, Bramill himself em-phasised at times that he A: Yes, he said that the loved red roses and garlands made of them.

To Es Continued)

strike pospitals

ick round of several spita's revealed that the as complete and the rke splead tore a deserted Side the strike had un announced much in adace the Inflow of patients the hospitals was in trick-at least in the State ca-

Dr. Panchara Singh, gane-il secretary of the U.P. Pro-inclai Medical Services As-ociation, said to an official ress release that it was a latter of great surprise that he Government did not feel ecessary to talk to the As-ociation in the last 30 days expite the fact that the to-en strike notice was given ver a month ago. ver a month ago.

China holds Russia

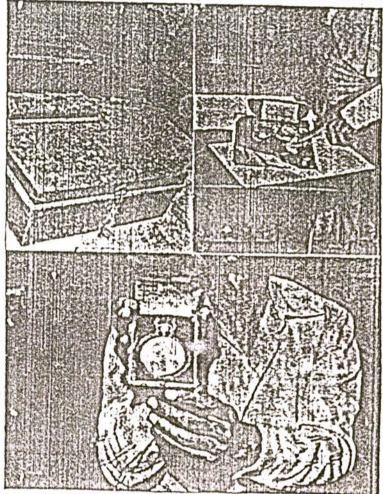
MIOI. TRIVANDRUM Jan 21ers Bovice Union were held to goalless draw by China it a match of he Gold Cap mind robin league match of Netru atall tournament here tonight.

From

Jan. 21.-The FAIZABAD. ollowing are the witnesses or the defence but for this! probable the administration as all set for the persquu-

Satya Narain Singh. Advocate, and President of the Bar Association of Falzabad.

Mr. O P Madan, Managing Director of Naya Log. Mr. Anil Tiwari, Advocate, an activist of the Bhartiya Janata Party. Mr. Ram Prakash Singh,



view of the huddled boxes. Right: Reading glasses used by the Man and, Below: A pocket watch

tions here tomorraw.

Indira Gandhi case judgement today

NEW DELSIL Jan. 21—The Additional Sections Judge, Mr. Mahesh Chandra delivers on Wednesday the judgement in the historic Indira Gandhi murder case at the end of an eightmonth-long trial, reports UNIL

The Judge will first pronounce his findings as to the conviction or otherwise of each of the three accused—Satwart Bingh, Balbir Singh and Kehar Bingh—on the charge of conspiracy to murder Mrs. Gandhi

H any or all of the accused are found guilty, the Judge will hear arguments by counsel for both the defence and the proscution on the quantum of punishment to be given to the accused

He will then fix a date and time for awarding the sentence.

INSIDE

- 4-Pak subversion clanbing heights.
- Australia heat India -Illiteracy rising in nationa
- Curing diseases through York.
 - service. Consumer bank officials.

Kausar, Husain,

Advocate. a member of the Janata Party. Mr. Arvind Singh.

known activist of the Congress (I).

Ashok Tandon, Editor

Mr. Ashok Tanuon, of 'Naya Log' and, Mr. Vishwambhar 7. Mr. Arora, a member of our investigation team.

In all, they were seven in number; coincidentally like the chosen few, who had guarded the secrecy of the Man, both when he was allve and when dead; painstakinghim for the ly preserving

Vishwambhar

visitor's from Bengal who never came.

The District Magistrate of Falzabad told us with regard to the cremation at Guptar Ohat: No permission was sought and no permission was granted. The matter cropped up after a month. In the normal course it would not have been permit-ted. It was not a normal site, yet to my knowledge it does not violate any law. Till now no case has been registered. The contents of

Nath Arora

the room are intestate pro-Now unles's someone perty', l

decided by a court'.

These diverse personali-These diverse personall-ties, chosen by the finger of, assembled in that room fate. to inspect the content's and an inventory pre pare 101+ lowing Instructions of the Superintendent Senior Mr. Karamvir Bingh. Police. Falrabad, under Order Numrer ST/C-22/1985, Oct. 30,

The police records istate Bee Page &

Principlent Chile Deschwan

That North Kores ume tafate !

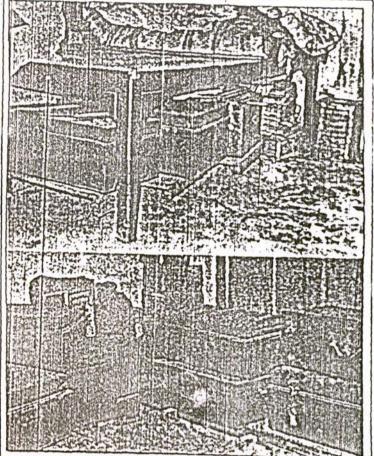
terness (and appropriate the property of the p gh level wer body 110

W DFLIII, Jan. 11:—A number of the being set up to advise the rament on matters relating negation and distribution of the last icity in the country, eports

e Minister of State for Mr. Arif Mohammad n. delivering the presidential eas at the 55th Annual second the Central Board of of the Central Board of ation and Power Line today that the Council would confor representatives of the Electricity Boards, manufers of power equipment, for consumers of relectricity experts in the field.

he Malyer told the conter e that the formulation and dementation of hydro-electric piocis whuld be accolerated.

an referred to the Uniament giving ton priority to e energy sector in the Seventu-an, and said over 22000 MW iditional capacity would as ided during the Plan perion of pump socs are also propried be electrified, he suid,



Above: The cot used by the Man and, Below: the crowded corner accommodating boxes and other articles of his everyday Me.

Quick response to grievances

A MARKET AND A STREET AND A STREET AND A STREET

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10

NEW DECHI. Jan 21 Line mucions have been issued ricus Central Ministries and De-partments to ensure suick respartments to ensure ponse to letters regived from members of the buric, reports

The Minister State for Administrative Reforms and Public grievances Mp P Chidambarani has, in a communication sent to the Ministes and departments on the apvice of the Prime Mi sister, saggested that the letterbe repled to within 15 days

here delay is anticipated in sending a final reply, an inter h reply should be sem with. fornight indicating the In public date by which a final redly can be given.

le says that requests from enthers of the public should as r as possible be looked at from ie user's point of view and not olely from the point of view at aministrative convenience

ROM PAGE ONE

early that it was Dr. R.P. Ishra, Dr. P Bannerjee and araswati Devi Shukla who nlocked the doors of the am Bhavan abode of the lan in the presence of Incestigating Officer Harish hand Singh on Oct. 31,

085. All the seven members oped in by fate were at the preshold of a great disco-ery, at least so it seems from the inventory they so agerly and hurriedly .pre-ared. The policemen pre-ent, unable to comprehend ne dimensions of the 'slient' ridence' found in the room they were preparing a panchnama' perfunctorily routine affair for them-

Jally. Inventory: Besides houseold roods a lot of silk maetrial, crockery of Japanese number of rigin, a large ooks in English. Bengali nd Hindi, personal belongngs including a golden ring. ne watch (Omega), one po-ket watch (Rolex) and an-Swis's-made watch. ther Swis's-made his pocket-watch ubhash Chandra Bose used enident o carry pe is enident in

tich they do so often ca-

Man of mystery

next chapter. To remind our readers we have referred to this Amai Roy in earlier chapters dealing with the Man's stay at Neemsar. Amal Roy stayed back in the Shi-valaya of Mahan? Shiv Narain Sharm, and died there Amal Roy was the driver moving the Man in a cur-tained car, if there was notained car, If there was notity of the Man, the problems created by 'Jagdambe Ma' created by 'Jagdambe Ma' would have been of no con-While sequence Bastl the Man had not taken Jagdambe Ma to Ayodhya. She, however, reached there later inquiring about him.

In one of the trunks, a packet containing six letters

of Durga Prasad Pandey of Basti were also found—two of them dated Feb. 10. 1267 and Feb. 21. 1967, written during the Man's stay at Basti. One of the letters Basti. One of the letters says: 'You had been an exscholarship ICS officer of scholarship with far reaching command over English Jan. 3 was celebrated as your birthday here. The most auspicious day of the country.

There is a letter of Jaga; There is a letter of vaga-iit Das Gupta of Calcutta written in Bengali. He pays horpage to the Man on his 87th birth anniversary. Mr.

the I.O. the next day but he gave the sup.

It is more than a coinci-

dence that during these years, more people were clamouring with curiosity at distant Calcutta about Neta-On August 19, 1977, a representation signed by Mr. Sukamal Ghosh. Editor of Jugantar. Mr. Sudhanshu Kumar of the Hindustan of Mr. Kumar of the Hindustan Standard, Mr. Sita Ram Sek-saria. Mr. Dwilendra Sen Gupta, a former member of Parliament, Dr. Ait Kumar Das, and Mr. Sunil Das, a ournalist and close associate of Netaji, pleaded for reo-pening of the inquiry into the mysterious circumstances under which he had disapworld. peared from the copy of the representation has also been found in his room There is another clipoing of a newspaper with the neadline 'Netaji Kahan Hain

-three pices'.
There is yet another clipping referring to a writ pe-tition filed by one Acharya Nand Lai Sharma. a freedom-fighter, moved in the Supreme Court, pleading for inquiry into Netali's nn The clipping whereabouts. of the paper shows that Mr. Sharma had produced extracts from the diary of Su17 in connection arith the Commission's proceedings.

Another significant object obtained in the room is a large national flag with rope and strings.

Carefully-scaled almost all the places of the Man's sojourn besides those showing the pla-close associates of his places including P.M. Roy are also on the List.

Letters of P.M. Roy with the address Dum Dum Park, Calcutta-700055, almost asalmost astounded the witnesses. sides, a big parcel from P.M. Roy dated March 29, 1923, containing 43 Bengali books and a magazine is there.

Books of Sharat Chandra Chatterjee, five volumes of 'Mahabharat' in Bengali. Bengali. two Bengall books with Netaji's photographs on the cover and two Oxford dic-tionaries are in the heap of photographis on the documents lying in the room.

Pipe-tobacco, two sealed bottles of very old, foreign brandy, boxes of homoeopathic medicines, currency notes of all denominations valuing about Rs. 5000, wol-len garments of large size len garments of and saffron clothes are am-ong the other articles taken note of in the inventory. But the most revealing outfit

ould to next page could, to next | contil to next

contil to rext

22-1-86

watch (Omega), one po-watch (Bolex) and an-g Swis's-made watch. er Telosely Docket-watch. mhins to the one hash Chandra Bose used c: Kdent nt of his 15 of his photographs glasses with golden that can be likened nes that can the ones which adorn the troovered But the most ot graphs a large number of books. clippings and decuments that one or the other relate to Chandra Bose

owerful German binocu-, a typewriter 'Empire' of gland, a National Panaso-tape-recorder, 'Phillips' tape-recorder, 'Phillips' ord players, a selected re-ds of Tagore Nazrul Is-1. Bismillah Khan, and were and boxes, iyat Khan were also nd Jewellary boxes, ugh empty were found in the boxes.

hen there is a letter writ-

by one Trapti to the n in 1977 which reads like What would for Mais matchiess. Des pite it if she is dissatisfied. 1 come and pacify her.
u did a lot for her son.
v then they are doing so
w? When she offered to
ye you in Basti, it was unnditional. We will be rea-ng there on 20 July, 1977'. We will be rea-

This refers to Saras rati vi Shukla, called 'Jag-nbe Ma' by the Man, she t become a source of trousince the days the Man d in Bastl. We have al-dy referred to this ladys wing contact with the ward Block people there, with the sequently endangering the recy of the Man. In this was responsible for the n's shift from Basti to odhya We have also nd a letter of Rajkumar, of Saraswati Devi Shukwherein Shukla had askfor 5000 rupees which, he would be strictly a loan time. It should be reted here that while leav-Bastl, the Man had not en 'Jagdambe Ma' to Ayo-where Durga Prasad a where Durga Prasad der had hired Prahlad ram'shala' of P rurohit his Kishore Mishra'. The blem arising out of the ence of Jagdambe Ma is her substantiated by a wilten by one Amal addressed to Mr. Samar has that Swamiji had to a Basti due to Matalia. Purohit to Matall's ha that Swamili had to e Basti due to Matali's tions with Forward Block ple The significance of letter points to the fact Mr. Samar Guba was Important link so far as TT Man was concerned. be revealed later in the

here. The most auspicious day of the country.

There is a letter of Jagatilt Das Gupta of Calcutta written in Bengali. He pays homage to the Man on his grih birth anniversary. Air. Dasgupta writtes that he has beard from Mamababu (maheard from Mamababu (maternal uncle) that he (the Man) has injured his knee seriously by an accidental fall. 'I hope you are on the path of recovery'. Mr. Dasgupta then quotes a poem of Rabindranath Tagore. Some of the letters sent by Manu-bhal state that if Netaji reappears, people will come out to help him financially. One such letter shows small commentary written by the Man: 'Galat Bewakoof, Medla Madad Kareji' (Wrong silly, media will help). In an old letter dated Jan. 20 1964 Sunil Das Gupta, a

664 Sunil Das Gupta, a nalist known to be a associate of Subhash dra Bose, of Bengal journalist clasa Chandra Bose, of Bengal— Mr. Prafulla Chandra Sen— In connection with lifting of the ban on Jan. 23 celebra-tions of Netaji's birthday (as the Government then feared that the congregation might turn violent and create a law and order problem in view of a massacre in Dhaka in those days). Another mention in this letter is about the writer's meeting with Surendra Mohan Ohosh who had met Shardanand of Shalmari Ashram for two days. The letter also fells Shalmart that Surendra Mohan Ohosh had met Nehru. Rajinder had met Nehru. Ralinder Prasad and Desal before his meeting with Shardanand.
Another striking feature of the letter is a fact mention that after the 'plane crash' Netaji's name had been Netall's name had been dropped from the War Criminals list since the Allied Powers and the British Onvernment had accepted Netall as dead. It added the will be treated as an Imperior of the property. poster in case he reappears. The letter further says that after talks with Mr. Ghosh. three pertinent points have emerged. (1) He believes that Netaji is alive. (2) He is alive to the probability of declaring Netall as

poster, under certain circumstances, in the event of

cumstances, in the event of his reappearance. (3) He is keen to reach Netaji if he could trace him.

of Other letters Oupta were also Sunli found in also Street, Calcutta. And It was the room bearing his address on the basis of me who went to Calcutta on Now 5, 1985 to Interrogate Pavitra Mohan Rov also con-Gupta promised to talk to

dom-fighter, moved Supreme Court, pleading for an inquiry into Netaji's whereabouts. The clipping of the paper shows that Mr. Sharma had produced ex-tracts from the dlary of Subhash Chandra Bost Mann a copy of an astrological magazine. Bhavishya' of Al-16 abad dated May 23, 1931 carrying an item on Subhash Chandra Bose were also found in the room.

There are clippings of a series of 24 articles head-lined Plane crash is a plantory' safely kept in a Among the large number ted story' safely file ... ber of books on national and international affairs. there is one book 'Life Beyond is one book 'Life Beyond Death-Netaji Through German Lens'. Postal stamps released on Netall's birthday (Jan. 2J. 1964) were fiso preserved.

Interestingly enough, a copy of 'Jugantar', a Bengall daily of Calcutta, carrying news about unveiling of Netall's statue is also there. He. how Was

There is a letter from Lu-Col. V R. Mohan of Lucknow dated June 9, 1968 which is in reply to a letter of May 21, 1968. It read as follows: 'Swamilj, 1 can only say un-til such time you disclose you disclose t, I can do what you want, nothing. In case you have anything to disclose, you may do so. I shall see what possibly can be done's closure of what? Col ne'. Dis-Col Mohan is also no more to ans-wer this querry!

Another important from Surendra Chowdhrl of Chowdhrl House Pakki Saral, Etawah. Chowdhri's meeting with Bahuguna, Raj Narain and other leaders during the Janata regime Evidence shows that it was this Chowdhri who took the Man from Lucknow to Neem-sar and remained in contact with him till the last. Sa-raswall Devi Shukla refers to him as 'Raja Saheb'. Man. Chowdhil viel formed about the rielfed. Falzabad and performed certain last rives. Our search for him is still on.

The extract of the controversial G.D. Khasla report, typed in 40 pages, has also been left behind by the Man. Along with it was found a typed copy of the statement made by Dwilnendra Nath Bose before the Khosla Com-Bose before the Kinsia sammission. But the most start-ling discovery is the original aummons issued by the Ad-yneate-Commissioner of 24 vocate-Commissioner Pargana to Suresh Chandra Bose (brother of Netall) for anneating before the Collet of the District Judge on Ang

notes of all denominations valuing about Rs. 5000, wol-len garments of large size notes of all len garments of large size and saffron clothes are among the other articles taken note of in the inventory. But the most revealing outfit found consist of a Khaki pant' (32" x 44")—Tee Dees Dressers - and a sky-blue half shirt-again Tee Dees Dressers. The length of the pant proves that the wearer must be above average in height.

There is a coloured photo-graph of Swami Vivekanand. But the most important one from the Man's point-of-view is an album of foreign origin meticulously maintained with its plastic folders for preserving the photographs. It contains 13 family group photos of Subhash Chandra It contains 13 photos of Bose in different settings.
One of them is Netall with mother and been at nd father. It authoritatively has learnt that whereas 11 of these photographs have been reproduced in various books on Subhash Chandra Bose, the other two remain exclusively confined to this al-bum. There are 6 plastic-covered back-stands with Netali in different poses and his family members. In one of such photographs, the caption below is 'Janki Nath with his family' — Subhash Chandra Bose on extreme right. It will be in place to add here that the name of Netall's father was Janki Retaji's father was Janki Nath Base.

If this mute evidence is properly sifted and its every item examined with a trained eye, it may narrow down our search to establish the real identity of the Man who was always shifting a burden of history from one place to another. The foot-steps have been traced, the landof mist has turned m of mist has turned mellow and as if dictates of destiny are taking us to the destination where a hazy shadow between truth and suspicion will be mingled with the ex-

But before it happens one has to ensure that the pro-perty of the Man is not decas intestate property. reed and not thrown trash-can of time.
(To Be Continued)

or S.K. Bose, P Published for Editor S.K. and Published for the Allahabad Patrika (P) Ltd., by Shibendra Kumar De Biswas at Patrika Press, 6-A. Patrika Marg, Allahabad REGD NO AD 12. LICENCE NO WP-4 VOL Press, 6-A. Patrika XXVII No 22.

38-1-86

MAN WAS SUBHAS BO The man of mystery XVI

Kausar Husain with Nirmal Nibedon and V.N. Arora

FAIZABAD, Jan 22. - The tien about the Man. The yours reward On reaching the Man's -of and unbellerable.

head back any more. knew the truth abould not be she let the words go. sibout what she saw and brought Voice came to her from before us Bonerjee's eyes as she spoke. lat being by the Man She was furn and clear Without weighting for she now-

Our mission gauntlet of sceptica-taunting at fading torch light running the wanterers' of truth travelling by to have access to the Man, and mlly of Falzabad was among the came to the rescue of the lost chosen few. Even more than that it was the privileged one The illustreous! Banerles tu-

occasion to Visit the Man of the young doctor also had Jee new 38. Eth Banerjes, wife 1983 at the age of 67, but not The wdisty-travelled Dr. T.C. Banerjee had pasself away in Jee and to his ma. Dr. P. Baner. to his wife, Mrs. Pushna Buner-

A

of price welled in Mrs. Pushpo spacious house to Rakabsant. conviniend that we were indegent and convincing reasons to other than Subhash Chandra clared that the Man was cons believe this she did not mines words, but domeet, talk to and observe for a full 10 years. whom she had the occasion to pendent inventions of truth His mother Mrs. Pushpa Banerroom to talk about the Man Jee allowed us into her drawing-Obce abe was

that the doctor should yield an tain. Instead the main doors of self of the Man, his sallent featilling 'Sanyasi'. The doctor, is the apportment were opened for tures remained unchanged. Production to go out, refused and him.

Sanyasi' to go out, refused and him.

Banyasi' to his dispensary. But was for the doctor who was as recounding voice were all there. alias 'Jagdambe Ma' came to the moon one day with a request hate Dr. T O Baberlee around Ayothya Sarasway Deri Bhuida (Surudwara Man was living in Brahmakundo house of Gurbux Bingh Boden in In the year 1975 when the complex 5 50

Tears clinic attached to the family?

Perita Line - CONTROL SLEED BY INEED SECTION OF THE PERSON

Late Dr. T. C. Banerst (to ft) and his son Dr. P. Banerst

occasion to that ment be south the south of the control of the latest for the doctor to perceive decided to meet this family who agreed without knowing that the Man. Awe-struck he stood star- Mrs Pushpa Banerics clearly realone had first-band informat visit would give an unforgetable ling at the specials—unthought members that day when has

tream shots have melted under elector was away with his wife, place, he was not made to re- the bludgeonings of time had of the Min for hours tegether the heat of team and history enjoying his day-off from the main behind the chanamon our their effect on the physical- and come had excited over the Though husband remained in the ratio turn of eve : a, and full of remorse of the irony of history

lwithout the Man's permission however, dured not take her Months pased before the Docso unpadent with the informating that the Doctor take her to husband that she started indstion passed on to her by her the great Man. now Mrs. Bancries had become constant horse riding. But by which he had developed due to in his legs he had been suffering frequent visitor to the Man watch ving the room was whatever he for decades, besides for blies congulted him about the nath saw was sirectly for his personal colved from the Man while histhis account might be discutrous After this the doctor became a for both the doctor and the Man. consumption, for any leak to on The one advice the doctor in-17:0 Doctor,

Map used to speak tain from behind 1 the Doctor, as usual, entered (Bee Page 6) which the

took his wife to the Man.

for having necessed

clearance.

was allowed only upon the cur-

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THOM PAGE ONE

MYSTER

是这些,他们也是没有的,我们也是是我们的,我们们的,我们们的的,我们们的,我们们的,我们们的,我们们的一个,我们们的一个,我们们的一个,我们们的一个,我们们们

the room tirel. After sometime Batterjee mustered courage one day and asked the Man why she was treated differently and a:kwed entry. SUL NULL the permission bou willia 4 45

mentally prepared. you see ? What?). This what? at Mrs Baners who since her oren senses in Lucknow while ders like Frontier Canoni Nehtu Apui Kalam Azad aud Bu-bhash Changra Bose himself at the tradence of Mr. Atulya Prasad bea a philanthropist of those To the querry on the well-composed CKIVS of the Man, the Mra Banerjee avoided a direct reply. tayenge (Yes I did see. Will examine, only then I can say Mrs. Bancries was Mrs. Bancrice nowever positively sure about the identity of the Man And now what she confided of us about the Man is the total retule of her 10-year study-s pe rio; during which she had slowgained the confidence of the Man though never authorised to commisse her impressions. But she decided to unveil the mystery surrounding the Man only first of all to unburden hersolt of the agony of keeping a seca reaction to the canards spread about the heart after his death.

Resulting those days, she told us that mail used to talk her in Histi. But an inquisitive Mrs. Banerjee, finding a Bengal. calender and Patras' and a large word in Betreath, askest the Mail one only around conversity in Bengali. Firm then onwards, & will othy in this anguages that they roo-

versel.

imar, Dr. H K Banerjee, elder brother of Dr. T C Banerjee and Mrs. Anna banerjee ins wile who resided at Gorakhpur also became regular visitors. They all were allowed inside. During all these years-wheener it was Biografica house, Luckno-allegan or the Rom mayan as at his Banerlee, seeing the positive conditions in solicit

in hospital in Ayodhya, used to nsu the Man at La Kon in the sixties. She abo revealed that Swami Gri was with the Man in London for about a year

Questioned by as to how she could percieve in 1975 that the sian in the room was Suonasa Changra Bose, she repaid that she had first seen Netali in 1933 at Lucknow in the house of Mr. Sen, when the was about ears old. She used to go 11 years old. She used to go there to nick flowers in a nearby house with her father who had then returned from Messopotamia after opting for the Mimary Accounts Service instead of a field job in the army. Again it was in 1939 when she was expecting her first son who was born in the month of November, 1939, that she las truet Netaji ut Lucknow where he had come to address a meeting of the fadway workers union. The meeting was held at a 'Maidan' adjacent gali Hotel in Charbagh Taking out all these avto Bengali Hotel in ents from her memory she said that once she told the Man that sne last met Niah in Lucknow sometime in the year 1938-gir. ing the wrong year deliberately. The Man immediately corrected her, that it was 1939. Speakcally asked

whether. since she had been recing the Man for about 10 years, and had got a full impression of his features, aid they tally with the various caricatures published by Hindi newspapers after his death? Mrs. Banerjee gave er which clinmost prized answer which ched the entire identity of the Man

He was as appears in Photograph rublished in Jugan-tar' ta Bengali daily of Calcut-ta) on Jan. 23 1979. This is what he looked like, Mrs. Banerjee emphatically repeated and narrated her reaction when she raw this photograph in the newspaper to which she then

subscribed.

Probably she wanted to be the first to present it to the Man without any loss of time, as in all excitement she took the paper to the Man. To her ex-treme surprise, she found an issue of this paper already lying

ancient temple in India and this was his last photograph Netall is still alive and is pracmeditation tistra Yoga and the various dattier A norget raugh by newsmen, Mr. (Suna actined to divuge any more detalk, saying that at the appropriate time Nemji would reveal nimself anywhere in India of 82, social that at the age of 82, retail is quite hale and hearty. Asked who took this photo-graph?, he replied I cannot -ay

W: This can be a false photograph

A: It is not false.

It this photograph is acceptable as that of netali Subhash Chandra Bose, then the Man Mrs. Pushpa Banerjee was ing all these years was Netaji every inch. She was also as emevery inch. Shiphatte as Mr. Mr. Somar Guha existance of Necaji. about the She said that the might be some doubts in others' minds but but of that in her mind as regards the fact that the Man she had been meeting was Subhash Chandra Bose.

And suddenly Mrs. Banerice lapsed into tears and her, voice as she spoke of white the broke Man had once uttered in pain: Mera Nam Duniya Key Register Sey Hata Diya Gaya Hat 1 My name has been cut of from the roll of this world). Was is because of some deep-seated ruilt about losing unsung a hero of great order that Mrs. Banerdropped every now and toan during our during our meeting? 3stadless of the number of times, she kept on saying, 'Aab Koi Dar Nehin'

(I have no fears now).

From the revelations of Mrs.

Baneree it was by now getting exceedingly clear that the Man, the personality we sought to reyeal was one stitling on Olympaan heights; musing and watching the parorama of life as one apart.

Again, we thought it imperalive to meet the roung Dr. P. Banerjee to have his impressoria The dynamic doctor had met the Man so many times in the let 10 years that he had naturally forgetten the number of

hideouts. The doctor's description of the woesney, with beard: complexion. good average height: more than uve feet and eight . . .

The restricted security being enforced by the Man was con-immed when Dr. Banerjee candidly stoces that even ithey were not permitted to got any where near the Man's pace of abode on January 23 where the brurany celebrations of Netall was observed in solemnay. "We never met those who came from Calcutta'

a Bengali beyond doubt well-versed in many languages, suridenly pursuing our mough Dever at in bengan. length'.

ogth'.
'nis speech 'diction, personslity and spiritual discoveries were of a very, very high stan-dard, unquestionable and there was no doubt doubt about . it' said the doctor. Q: What kind of-food did he

generally ex in your presence ! A: You may not believe ill, but he are only 2-inch diameter (kochi) only two or puris' (kochi) only two o

You are a doctor of const. derable experience. What was your estimation of his age?

ound 90 years.
Q: You took an active part in the cremation?

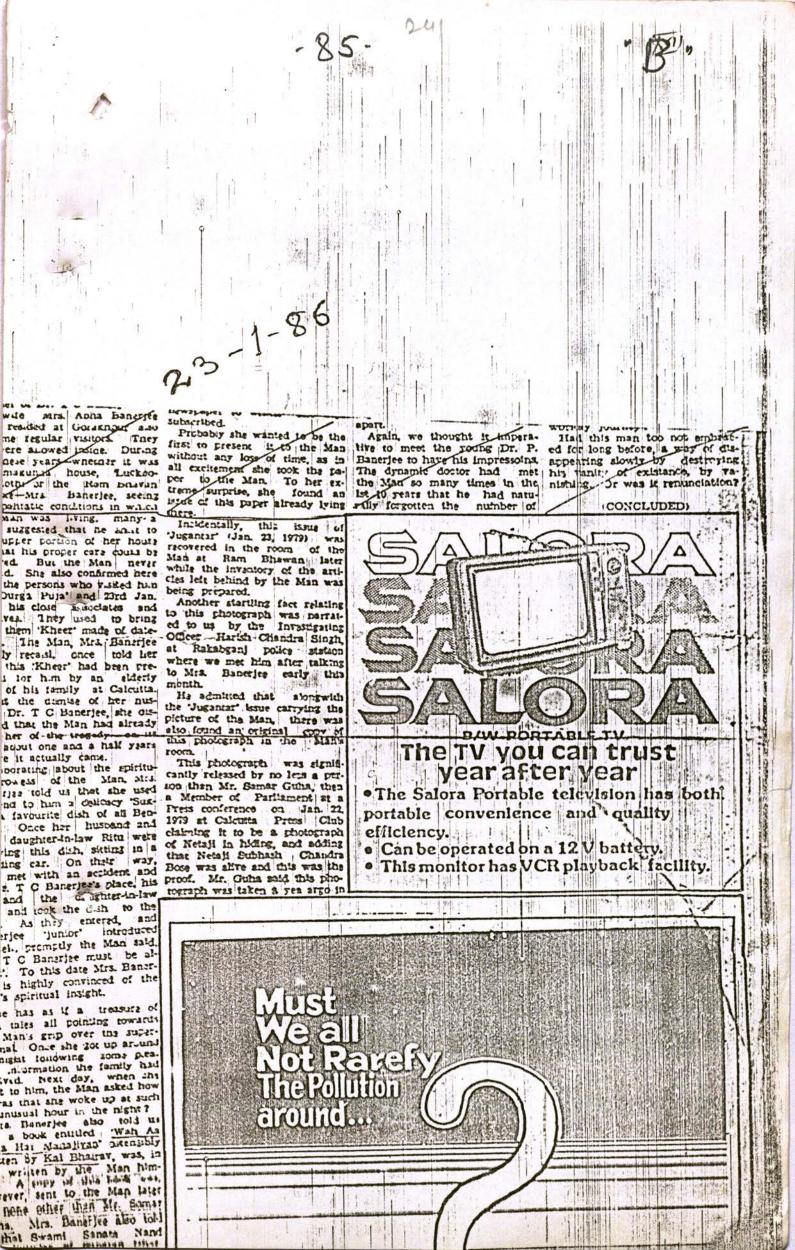
A: He was a person of spiri-So my cooceen tual eminence. was only to ensure that his money tal remains got a fitting place

Q: There was quite a controversy that the cremation sileunusua! Guntar-Chat was an one for this surpose).

A: No question of an unusual Baani set (in the first place). person is was a super-mormal Guptar Chat And hally. limed to be the place where none other than Lord Rama inmself had taken 'Jal Samadhil' -by sinking in the terme waters of Saryu . . . To my moid the bit rites were performed at a place where only the bollest of the boly would ever, and their worldly journey'.

Had this man too not embraced for long before, a way of the appearing alowly by destroying his vanity of existence, by wanishing. Or was a remunciation?

CONCLUDED



State State State

DISTRICT: CALCUTA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

In the Matter of: C.O.No. 6720 (W) of 1993;

-A nd-

In the Matter of :

An application under Article 226 of the Constitution of India;

-And-

In the Matter of :

BIJANG GHOSH PETITIONER

-versus-

Union of India & Others .. RESPONDENTS

Supplementary affidavit of Shri....

Sevanta Kumar Mitra

affirmed on 23.11-93

Smt.Arundhuti Mukherjee,
Advocate, Ban Assau R. XI
High Court Calcutta

No.31/2/7.1_Poll.(11_111) Government of India Ministry of Home Affairs

NEW DELHI-1, the 2nd September, 19

OFFICE MAMORANDON.

Marie Matail Transfer Commington

Ma Andergished is directed to forward herewith:

- BI copies in English and Hindi including one authenticated copy each of the Report of the one-man Commission to inquire into the disappearance of Netaji Subhas Chandra Boses
- (2) 21 dopies of the Memorandum of the action taken on the Report (in Hindi and English) in addordance with the provisions of section 3(4) of the Commissions of Inquiry Aot, 1952.

A72 spare copies of the Report in English and 760

(J. 3rinivasan) Under Secretary to the Govt. of India.

Sala Marine Str. (Uhri N.N.Nehra, US),

Copy Dol Parliament Section (MHA).

Carrelle AND THE LAND All for a new The state of the s ATT DE LIVE SEE HEA September, 1974; In a magnification is director to Current herewith The state of the s The being land on the Table of the Haute on the 2rd September: of white are the Report in Mirch are also same because a for victuintfoxe (d.Stantyman) Under Secretary to the Gove. of There Books Bearachilate, S.B.), (Sheet B. B.), and the second of the

MEMORANDUM OF ACTION TAKEN ON THE REPORT OF THE COMMISSION OF INQUIRY REGARDING THE FACTS AND CIRCUMSTANCES RELATING TO THE DISAPPEARANCE OF NETWI SUBHAS CHAPDRA POSE.

By Covernment of India Notification No.25/14/70-Pollitidated 11th July,1970 Shri G.D.Khosla, retired/Chief Justice of the
Puniab High Court, was appointed under the Commissions of Indian
Act, 1952 to inquire into the facts and circles that the
the disappearance of Netaji Subhar Chandra Bose in 1945 and the
subsequent developments connected therewith.

- The Commission completed the inquiry and submitted Its report on June 30, 1974.
- decided to accept the findings of the Commission that Netall Subhas Chandra Bose died in an air-crash-on the 18th August, 1949 at Taihoku airfield in Taiwan.
- 4. This Roport is placed before the House as required; under sub-section (4) of Section 3 of the Committee of Inquity Act, 1952.

Annesure "C"

NOT TO BE PUBLISHED OR BROADCAST BEFORE THE MORNING OF Z3RD JANUARY, 1992.

PRESS COMMUNIQUE

BHARAT RATNA

The President is pleased to confer the award of Bharat Ratna Posthumously on Shri Subhash Chandra Bose.

Rashtrapati Bhavan, New Delhi. January 22, 1992.

NOT TO BE PUBLISHED OR BROADCAST BEFORE THE MORNING OF 23RD JANUARY, 1992.

filly . 11 /20 / 231/2.

District : Calcutta

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

(Appellate Side)

In the matter of :

An application under Article 226 of the Constitution of India;

And

xtanx Cun

In the matter of : Bijan Ghosh

... Petitioner

-Versus-

The Mark Union of India & Ors. ... Respondents

- AMENDED PETITION

Advocate in person For Association, Room No.11, High Court at Calcutta. 11-88/12/23/23 - Ra

Deted : 2:

Mr. G. Kundu, Sr. Central Govt. Advocate, 4, K.S. Roy Road, Calcutta - 1.

In Re: C.O. 6720(W) /1993 Bijan Ghosh - Vs -

Union of India & Ors.

Dear Sir,

Enclosed, please find a copy of the Amended Writ Petition to be filed as ordered by His Lordship, the Hon'ble Mr. Justic Shyamal Kumar Sen on the last occasion i.e. 22 September, 1993.

Thanking you,

Yours faithfully,

Enclosed : Amended Writ Petition with all annexures.

SUNDAY MORNING : NEAR AKSHAYA BIDYAPITH, NEDERPARA, KRISHNANAGAR DIAL 2129

A. Oak

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IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction (Appellate Side)

In the matter of :

An application under Article 226 of the Constitution of India;

-And-

In the matter of :

A writ in the nature of Mandamus;

-And-

In the matter of :

A writ in the nature of Certiorari;

-And-

In the matter of

C.

Any other Writ and/or Writs, order and/or orders, direction and/or directions;

-And-

In the matter of :

Articles 19, 21 and 51A of the Constitution of India.

The 'Bharat Ratna' conferred upon Subhas Chandra Bose posthumously without having any official declaration by the Govt. of India of His death and/or admission of His death;

-And-

In the matter of :

Press Comminique dated 22.12.1992
issed by the Rastrapati Bhavan
Authority conferring the 'Bharat
Ratna' upon Subhas Chandra Bose
posthumously.

-And-

In the matter of :

Netaji Inquiry Committee, 1956

&

Netaji Inquiry Commission, 1970;

-And-

In the matter of :

Netaji (High Level) Investigative Committee;

-And-

In the matter of :

'Right to Know'

Fundamental Rights;

In the matter of:

Bijan Ghosh, Advocate

practising at High Court at Calcutta

Bar Association Room No. Eleven,

son of Sri Benoy Krishna Ghosh

B-172, B.E. College, Howrah-3.

· PETITIONER.

-Versus-

- 1. The Union of India
 represented through the Secretary,
 Ministry of Home Affairs,
 New Delhi-110 001.
- 2. The Union of India
 Service through the Secretary, Ministry
 of Human Resources and Development,
 New Delhi-110 001.
- 3. Amiyo Nath Bose S/o. Sarat Bose 226/4A, Netaji Subhas Chandra Bose Road, Calcutta-700 040.
- 4. Sunil Krishna Gupta, 38, Bidhyasagar Street, Calcutta-700 009.
- 5. Susanta Kumar Mitra,

Calcutto-700 006.

- 4 -

To

The Hon'ble Mr. A.M. Bhattacharjee, Chief Justice And His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioner abovenamed.

Most Respectfully Shewath !

- 1. Your petitioner is a citizen of India and resides in the address given in the cause title. He is an Advocate, practising at High Court at Calcutta.
- 2. His Excelency, the President of India, had the pleasure to confer the 'Bharat Ratna' upon Subhas Chandra Bose on 23rd January, 1992 posthumously by a

which concludes that the Government of India is hereby officially admitting that Subhas Chandra Bose is dead. At the same time by bestowing him the Bharat Ratna, the Highest Civilian honour with the description posthumously, the President of India has declared the other way round, that he is dead. The Government of India before that had not declared anywhere that Subhas Chandra Bose is dead and had not officially accepted the alleged report of Subhas Chandra Bose's death on air crash on 18th August, 1945, in Taiwan. There is neither any declaration from any International Government or Authority either that Subhas Chandra Bose died on that air crash nor in any other subsequent specific event. Without the specific report of death of Subhas Chandra Bose, the Government of India cannot and should not confer him any title with the description posthumously.

To unveil the mystery of the alleged death of Subhas Chandra Bose, to assert the facts related to the Aeroplane Crash and/or death of Subhas Chandra Bose. Netaji Inquiry Committee 1956 (hereinafter also refusal to as the Shah Nawaz Committee) was appointed by the Government of India in the year 1966 i.e. after a period of eleven years from the alleged air crash followed by the announcement of Netaji's death by Tokyo Radio. The Government of India, headed by Sm. Indira Gandhi had apparently not accepted the report of the Shah Nawaz Committee resulting in the setting up of a second enquiry body under the Commissions of Inquiry Act 1952 under the name and style of Netaji Inquiry Commission 1970 (hereinafter also referred to as the Khosla Commission) consisting of Mr. Justice Rhosla, a retired Chief Justice of Punjab High Court. The Khosla Commission's Report, which was submitted in June, 1974 with the findings in favour of the alleged aircrash, was eventually rejected by the Government of India headed by Morarji Desai after a full-fledged debate in Parliament on a motion by Prof. Samar Guha. In course of the said debate, the then Prime Ministera Morarji Desai, declared in the Loksobha on August 28, 1978 declared that in the light of reasonable doubts and important contradictions in the testimony of witnesses and some contemporary official documentary records, which had become available, the Government found it difficult to accept that the earlier conclusions of the Shah Nawaz Committee and the Khosla Commission are decisive. This declaration of Shri Morarji Desai decisively proves beyond all doubts that the death of Subhas Chandra Bose was not officially accepted and recorded by the Government of India and for that reason,

the award of 'Bharat Ratna' could not have been conferred posthumously on Netaji Subhas Chandra Bose. Subsequently, the Government of India, headed by then Prime Minister, Mr. Chandra Shekhar decided in favour a further investigative inquiry to unearth the 'unsolved mystery' of Subhas Chandra Bose's death, but the said decision does not appear to have been acted upon for so far.

It is worth while statings in the above context that both Mahatma Gandhi and Pandit Madan Mohan Malaviya advised Netaji's family to abstain from parforming his Sradh Ceremony after his death was announced by Tokyo Radio on or about August 23, 1945. The meeting of the All India Congress Committee held in Bombay thereafter under the Presidentship of Moulana Abul Kalam Azad abstained on the President's suggestion from passing any condolence resolution to mourn Netaji's death. As far as your petitioner is aware, till today no such resolution has been passed by any body of the Indian National Congress inspite of the fact that Netali Subhas Chandra Esse had adorned the Presidency of the said party on two successive occasions. The present Prime Minister, who also happens to be the President of the ruling Congress party, must be aware of this historic retrospect. It is therefore unbecoming on the part of the Government of India to describe the m impugned Bharat Ratna! as posthumously conferred on Netaji and for that purpose to stick to the story of his death in the alleged air-crash or to rely on the reports of the Shah Nawaz Committee and the Khosla Commission or either of them in purported jurisdiction of treating Netaji having died in the alleged air-crash on August 10, 1945.

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5. Subhas Chandra Bose was conferred the title 'Netaji'. Gandhiji said about him "Subhas is the patrioto. of Patriots, the prince of Patriots". The people of India have profound regard in Him. He all along had been admitted as a National Hero. He was the main architect of the freedom of India. The Countrymen have become stupified as to what propelled the Government of India to confer the 'Bharat Ratna' on him. A Title or an Award is a recognition conferred on a person for his achievement, contribution and success in any field. An award or a Title has it's congenital limitation. But when a personality is higher and greater than any award or title, conferring such honour on that person becomes ridiculous. It becomes an act of carelessness to classify such person as of equal rank with others who had already been awarded such title and who would be awarded such title in future. Sometimes conferring a fictional honour on a person becomes an insult to him instead of true honour to him. That is why it is found that some persons under some unwanted situation or in some derogatory circumstances reject such honour or do not receive such title. Award or Title is made to account for and recognise the success/contribution/achievement of a man. The question is whether the Government of India has even now been able to measure and fathom the success, and contributions of Netaji in the freedom struggle of India and His success and achievement and contribution is capable of denominated in like manner by the Government of India by merely, Conferring the award "Bharat Ratna" on hid by way of a'prize-giving ceremony'. Reward of a patriot like Netaji was the freedom of His Mother Land, it could not be reduced to a functional honour.

status attached to that, may not always be a reward to a towering historical personality. It could ridicule and dishonour Him, it may demigrate, debase and defame Him. It may be derogatory to the person who is awarded such honour, if he is much greater than the award itself. Not necessarily an award or a Title would always make the receipient glorified, sometimes it just damages the whole purpose itself, it turns to a humiliation on the part of the receipient. All apart a personality like Him should not be ranked with other receipients of the Bharat Ratna by conferring on Him the Bharat Ratna, may it be the highest civilian honour.

After a span of about 45 years what promoted 7. the Government of India to recognise his success, to fatnom his achievements, to reward His contribution, to admire His sacrifice. The decision and the action of the Government of India are really ridiculous and have got no rational basis. Virtually He has been abjured by this 'Honour' It is not a regard but a sheer disregard for him. The persons, who had been conferred with the 'Bharat Ratna' before Him are chronologically. Dr. Radha Krishnan, C. hajagopalachari, Dr. C.V. Raman, Dr. Bhagwan Das, M. Visheshwarayya, Jawaharlal Nehru, Govind Ballabh Pant, D.K. Karve, Dr. Bidhan Chandra Roy, Purushottam Das Tandon, Dr. Rajendra Prasad, Dr. Zakir Hussain, P.V. Kane, Lalbahadur Shastri, Indira Gandhi, V.V. Giri, K. Kamraj, Mother Terresa, Vinoba Bhave, Khan Abdul Gaffar Khan, M.G. Hamchandran, B.R. Ambedkar, Nelson Mandela, Morarji Desai, Rajis Gandhi, Vallav Bhai Patel. It cannot be antit that all of them were superior to Him or His contriforegoing parsons. It is also a riddle to the People as
to what propelled conferring of 'Bharat Ratna' on Netaji
along with Moulana Abul Kalam Azad on the same day. They
were not at all equal in rank as far the freedom movement
of India is concerned. After Him, till date, J.R.D. Tata
and Satyajit may have been conferred "Sharat Ratna". Should
the Government of India rank Suthas Chandra bose with all
these persons or with all such persons who would be conferred
the "Bharat Ratna" in future is a question of questions.

7A. Subhas Chandra Lose earned the Immortal honour of being called as Netaji by his countrymen right from the time of his organising the Indian National Army and establishing the Provisional Government of Free India and heading the same as the President and Supreme Commender. The said Government was recognised by eight independent countries including China and administered Indian territory of anaman-Nicober for more than a year, besides having hoisted National Flag on the Indian Soil at Imphal. He was thus the first President of independent India by any standaru of intrustional evaluation. The President of India, Jakir Hossain rightly said "He was the first president of India". Prior to his departure from India for fulfilment of his mission from abroad and as early as in the year 1939 he had the unique honour of being elevated to the status of "Deshneyak" by no less a person than Rabindra Nath Tagore in a historic address written in this honour after His resignation from the presidentship of the Indian National Congress in the A.I.C.C. Session at Calcutta following the Tripuri episode. No.honour, title or award howsoever colourful can even dare to approach even the shadow of his towering personality or of the evaluation of his

character and contribution to his contrymen, excepting
the Sage of Santiniketan. In that tribute Rabindranath
addressed Him the incarmation of God, the manifestation
as guaranteed in the "GITA". Bestowing the 'Eharat Ratna' on
Him, whom Dr. Sarvapalli Radhakrishnan described as
Superman, is therefore tantamount to lowering him in public
esteem.

A true copy of the Article "DESHNAYAK" is annexed and marked with the letter "A".

17 A11

3. There was a total no application of mind on the part of the Government of India in conferring "Bharat Ratna" on such an elevated personality. It was totally an mechanical approach. The Government of India should have meticulously considered whether it would be a regard or disregard in conferring on Him, the Bharat Ratna' after 45 years of independence and that too after conferring the "Bharat Ratna" on a lot of other persons. Had he been the first receipient of such an award, the bonafide public reaction would have been that such an attempt was directed at limiting Him, His success, contribution and attainments. The Government of India should have judged the matter carefully and dispatriately and not mechanically or superficially; the public sentiments, emotions and feelings should have been taken into account before conferring Him the "Bharat Ratna" Without having any attempt afresh to resolve the Mystery of His Death, without having any regard to the honour and feeling of the people have for Subhas Chandra Bose, the Government of India conferred on Him the "Bharat Ratna" and that too posthunously when the same had been conferred by that time upon a number of persons who cannot be ranked with him in any way. The Government of India has no right

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or authority to insult a National Hero; to defame and disregard a man, who was the main architect of the freedom of India, to hurt the feelings, sentiments and admiration of the people of India, to dishonour and humiliate a personality by just attaching a insignificant mark of honour on him, who was much above the other persons who need such official recognition and honour. The Government of India should reconsider the decision of conferring on Him the "Bharat Ratna" and there is no lota of doubt about it that it would be a mark of true respect and honour to Him, if His name is not labelled with the "Bharat Ratna". The declaration of conferring the "Bharat Ratna" on Him should be withdrawn/recalled as a mark of true respect and honour to Him.

Your petitioner craves leave to submit the Secount of public sentiment and feelings as reported in press against this decision of Government.

Mother India.

- 9. Subhas Chandra Bose left his house at Calcutta on 17.1.1941, evading house arrest, reached Japan in May 1943, en-route Afganisthan, Soviet Russia, Germany, Madagascar and Sumatra.
- 10. Japan Officially surrendered on 15th August, 1945.
 After the fall of Japan in August, 1945, since it was not

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safe for him to stay in any part of East Asia, he left
for an asylum, in all probability that was the then
Soviet Russia - it is not just a sentimental belief or
mere conjecture, but there are enough evidence, documentary
reports and other auxilliary testimon; to reach such conclusion.
It is now an established fact that Subhas Chandra Bose
successfully managed to enter the then Soviet Russian
territory via Manchuria under the camouflage of the report
of his air crash death on 18th August, 1945.

- 11. It is also on record that Subhas Chandra Bose went to the then Soviet Russia and wanted to come back to India sometime in 1945 - 1946, and it is reasonably believed that subsequently, somehow it was so managed at any level that he was kept in the then Soviet Russia against his will and for some reasons or others, he was not allowed to come to India. Propelled by this strong impression all the persons who took the matter in the National interest, all along wrote to the authorities concerned of the then Soviet Russia, even of the new born Russia to reveal all the facts and truths related to the whereabouts of Subhas Chandra Bose. But till date, no information has been received by the People of India from the Russian authority. It is needless to mention that Subhas Chandra Bose was never officially declared a War Criminal at least to the knowledge of the Government of India.
- 12. It was along doubted that the alleged plane crash was a camouflage under which Subhas Chandra Bose left East Asia and took shelter in some other part of the World and the logical conclusion was that the comply was the then Soviet Russia, which all along was very friendly to

Subhas Chandra Bose and he had a profound faith in the philosophy of Socialism. All along, different Indians. in representative capacity as well as in individual capacity whote to the then Soviet Russian authorities that Subhas Chandra Bose was in the then Soviet Russia and should be handed over to the Indian People. Mr. Samar Guha, who was an Member of Parliament, as a leader of the Socialist Party of the Lok Sabha, met Breznev at Rashtrapati Bhavan, when the latter visited India and presented a three-page memorandum on 23.11.1973 with a request that Moscow should reveal all the facts about Him in which he outlined the reasons categorically why Indians believe that Subhas Chandra Bose was given shelter by Stalin after he escaped to Saiberia on 23.4.1945. But no reply was received either from Delhi or from Moscow, nor was the request turned down in writing. The same request was made to Mr. Gorbachev after he came to power which too went un-answered.

mischievous propaganda about his death, there is no evidence to establish that Netaji was not alive on the date of the impugned honour. On the contrary the purpated findings of the two enquirying bodies regarding has alleged death no longer hold the field for the reasons stated hereinbefore. There is no evidence of his death till date. The Government of India has failed to produce any such evidence so far. The purpated reliance on the reports and findings of the Shah Nawaz Committee and the Khosla Commission is like adrowned person making a reckless attempt to catch a straw. The said purported reports and findings having been discarded in Parliament as early

as in the year 1978 and the President of India having released the book of Prof. Samar Guha - "Netaji - Dead or Alive" containing conclusive evidence of the perversity of such findings in an official function at Parliament Annexe in the same year, the present someomment can not set up the self-same findings as the fountain-spring of their conviction that Netaji died in the alleged air-crash at Taihoku on August 18, 1945. The President of India in two Public occassions expressed firm disbelieve about the story of air-crash. If, therefore, clearly appears that what could not be achieved directly is being attempted to be accomplished indirectly by implanting the fiction of Netaji's death in public mind through the process of conferring the "Bharat Ratha" on Him and describing the conferment as a posthumous one. It is manifestly a collateral device to suppress the actual facts, which if disclosed might seem to be embarrassing to many.

Your petitioner will crave reference in the above context to various reports about Netaji's whereabouts such the date of his disappearance and reports of investigations carried on by journalists, which have not been taken into consideration by the authority making such posthumous "Bharat Ratne". The expression of views by the members of the Parliament cutting accross party lines during the debate on the motion of Prof. Samar Guha, the the M.P., on Khosla Commission's Report in 1977-78 will convince any person of ordinary prudence that the evaluation of Netaji can not be delimited by a stereo-type honour of "Bharat Ratna" and that too at this belated stage. The perversity of the report and findings of Khosla Commission attracted eloquent exposition by such members in strongest terms in denouncing the said stage performance by Mr. Khosla while your petitioner will crave reference to the said

Parliamentary proceedings; the following excerpt from the speech of Shri Dhirendra Nath Bose, Congress H.P. from Katwa may serve as an illustration :-

"demand to scrap the report of the Khosla
Commission is a demand of the people of India
and of the people of the democratic countries
in the World. The Khosla Commission's report
should not only be scraped, but also be burn
to ashes".

12C. While your petitioner calls upon the Government of India to produce before this Hon'ble Court the entire proceedings of the Parliament relating to the debate of the above motion of Prof. Samar Guha in order to enable the Manximia Hon'ble Court to appreciate the context in which the said debate was concluded by the statement of the then Prime Minister, Mr. Morarji Deshai on the floor of the House discarding the earlier conclusions as not decisive, your petitioner is citing below an excerpt of the speech delivered by Shri K. Maya Thevar, Congress M.P. from Tamil Nadu.

"There can not be two opinions among Indians"
now or in the past that while Gandhiji was the
father of the Nation, our beloved leader,
Netaji, is the greatest son of India, the tallest
Statesman not only of India, but of the entire
world. He was the greatest patriot produced by
the history of the World, not only Indian history".

11.

12D. The Report and findings of Khosla Commission and Mr. Justice Khosla xxx were critisized unanimously and lashingly and without any lota of protect on the floor of

Parliament. Members of Parliament denounced the said
Report and none opposed the Motion of Prof. Samar Guha.
No body advocated in for accepting Khosia Commission's
Report. Most remarkable aspect of this episode was that
the Khosia Commission's Report was accepted during
Emergency, and that reasons it was reopened by the next
Government. In view of the equivalat voide of 17 Members
of Parliament and none opposing the motion, irrespective
of political views, the then Prime Minister amuled the
earlier acceptance of Khosia Commission's Report and
findings and Shah Nawaz Emmission's Report
findings.

13. Freedom and Democracy are the two things which are supplementary to each other and one can not exist without the other. Freedom is all pervading. It includes the freedom of information. In a Democratic country like India, where freedom of thought and expression are guaranteed as fundamental rights, the freedom of information is concommitant to such fundamental rights, because the resource of thought and expression are information and knowledge. A free and democratic State cannot afford to ignore the freedom of information of its citizens, p

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particularly inrespect of questions, of National interest, more so when relating to the alleged death of a National Hero, the main architect of the freedom of India. Freedom, in its' true spirit is guaranteed in the Constitution as fundamental right and as such 'Freedom of Information' should also be honoured as Fundamental Right. The promises of unconditional Freedom in true sense are pilling up, but the day of fulfilment is nowhere in sight.

14. It would be better social injustice if the people are deprived of 'Right to Know'. It cannot be said that social justice has been done if there is no right to know, no freedom of information, especially which is in the domain of National Importance, and in no way related with the Defence and Security affairs of the State. In particular, if people are deprived of the knowledge and information about Netaji's disappearance that would known tantamount to a National Crime.

15. The right to know should be treated with paramount importance and of fundamental bearing in a Democratic Republic, Right to know is a fundamental as Right to life.

The constitution of India had been contemplated in it's preamble : Justice - Social, Economical and political.

The Justice cannot be ensured without proper and true freedom of information and right to know. Every citizen has every right to know everything save and except those details of defence matters which are in the provice of security of State. Furnishing information with regard to 'right to know' is required for the due discharge mi of duties on the part of the Government even, if it is required to be obtained from any part of the World. A Democratic Republic State cannot promote a typical kind of "mental . slavery' amongst its people by adopting the practice of furnishing edited information. If there is no subjection free India, if there is no master-slave relationship between the Government and people in a Republic State, then the People have every right to know. In a Republic, by definition a Government is made by the people, of the people, for the People and as such if the people, are not guaranteed of their right to know then by the definition itself, the Government does not remain a Democratic Republic.

- admitted that right to know the truth is within the parview of fundamental right but that remains a mere theoritical declaration.
- importance, glamour and glory, struggle and success should not be declared dead under the camouflage of an award made posthumously. Virtually, Government of India is thus striving to stiffle all further inquiry commission(s), which could unearth the truth related to his whereabouts or

political asylum or his death in such captivity.

- 18. The Government of India did not care to honour the freedom of information to Her citizens. British Government published the documents related to 'Transfer of Power 1942 - 1947' in 1975 revealing many a secret documents, relating to the transfer of power to the Indian leaders but the Government of India remained idle and indifferent about the documents, and published in the said 'Transfer-of-Power 1942 - 1947. A number of documents, letters, correspondenties, decisions of British Cabinet and British Executive of British - India Government which were only referred thereto but not published. The Government of India should have. asked the British Government about clarification and publication in relation of some document, records, correspondences and remarks and for unearthing more facts and the truths related to the freedom struggle of India and Her political personalities for a review afresh.
- 18A. India attained 'Freedom' by way of Transfer-ofPower by virtue of an Act passed by the British Parliament
 on 18.7.1947 namely the Indian Independence Act, 1947. The
 Government of U.K. transferred power to the Government
 of India, conditionally, interalia, that the all Documents
 of 'Transfer-of-Power 1942-47 would not be realeased
 before 1999, i.e. after 50 years from the enactment of
 the Constitutional Law of India. In a civilised World,
 for an independent country this is unthinkable and
 unheard of.

18B. Even after the breaking of the Soviet Russia, the Government of India did not take any attempt to know about

for about half a century, whereas all the time all the doubts were harboured about Subhas Chandra Bose's stay at the then Soviet Russia. The State archieves of the then Soviet Russia's inteligence service, commonly known as K.G.B., which was also very much rich and resourceful on International secret information, is now accessible to all but the Government of India did not make any attempt to investigate or search out information over the whereabouts of the leader of India's freedom struggle, Netaji Subhas Chandra Bose.

In a question of National Importance, the State can not ignore her responsibility by deliberately turning her face back to the mines of information.

19. Your petitioner will crave reference to the supplimentary affidavit affirmed on 30.6.93 and the annexures thereto as part hereof. Your petitioner also crave reference to the abovementioned book of Samar Guha, which contains an elaborate discussion on the proceedings before the Khosla Commission and it's report and findings, demonstrating in precise and unabiguous terms the errorss and perversity not only inherent, but also apparent in the face of the said report. The Govt. of India is well aware of the contents of the book and a copy thereof must be available in the respective Ministries, which had to deal with the same not only at the time of the release of the said baok by the President, Mr. Neelam Sanjiba Reddy but also in connexion with the Parliamentary debate of 1977-78 referred to hereinbefore.

20. Your petitioner states that the most evinent two Historians of India, namely Ramesh Chandra Mazumdar and Amalesh Tripati are of the opinion that the subsequent phase of Netaji's life i.e. after 18 August, 1945 is mysterious, covered under a veil. None of them accepted that Netaji died in that alleged plane-crash. Each of them supported their doubt and belief by reasons and logical deductions. Your petitioner craves leave to refer and rely the said opinions of those historians at the time of hearing.

21. Mr. Dhaniklal Mondal, the then Minister for State for the Ministry of Home Affairs, made a statement in the Ilth April Parliament on Reptembar, 1979 with regard to the perported and abortive attempts in bringing alleged asheses of Netaji from Renkoji Temple, Japan to India, that since the Govt. of India was not in possession of any definite information about the death of Netaji, on the contrari there were reasons and records to disbelief the alleged story of plane-crash and as the earlier Inquiry Commissions proved indecisive - it could not be possible on the part of India to bring those so called asheses to India as Netaji's.

Pour petitioner states that the Govt. of India, headed by the Congress never showed any honour to this struggle for India's freedom or respect to Him. The I.N.A. personnels were recognised as "Freedom Fighter" after 25 years since Independence. The Ministry of Defence issued a confidential circular in early '50s, still in force, prohibiting strictly the display/depiction/demonstration of the photographs of Netaji.

Your petitioner crave leave to produce a substantial list of "Netaji - apathy" at the time of hearing, which it was squarely manifested that as if it was "State-Crime"

to respect Netaji and/or to honour his struggle and achievement. In that perspective it would be concluded well that the impugned "Bharat Ratna" was conferred upon Him with an 'intention' and the description "posthumous" attached to that "Bharat Ratna" was 'purposive'.

- 23. Under the persistent effort of a good number of M.P.s, irrespective of political parties and as many as 350 M.P.s signing the Memorandum demanding a fresh and proper Public inquiry into the causes of disappearance of Netaji, the Govt. of India by a Gazette Notification dated 11.6.1970 appoint Justice G.D. Khosla the One-Man-Commission to "inquire into all the facts and circumstances relating to the disappearance of Netaji Subhas Chandra Bose in 1945 and the subsequent developments concerned therewith". The Commission examined 224 persons including 18 Japanees, prepared a report of 5,500 pages but after 4 years on 30.6.1974 submitted the Report of 123 pages.
- 23A. Jistice Khosla travelled far beyond the terms of reference severally which proved the purposive absence of the integrity and rectitude on the part of the Commission. As many as 27 times, in the said Report, Justice Khosla cailed Netaji 'Quisling', 'Puppet', 'Paun' of Japan. However, Khosla had to tender unconditional appology before the priviledge Committee Parliament for this reason.
- 23B. Justice Khosla published a book before submitting his report, namely 'The last days of Netaji' where he pleaded that Netaji died in air-crash moved before the C.J.M., Bankshal Court, Calcutta, Mr. Dwijendra Nath Bose challenging, inter alia, the act of Khosla publication of the book and defematica of Nation. The matter was agreed

uncondition apology before the Court for printing and publishing the Book. The Ld. Court impossed an order of ban on that book. The fact conclusively proves that Justice Khosla made up his mind before placing the report.

- The members of Parliament specifically brought the allegations against Khosla when the said Notice was after appointing as the Commissioner debated in the Parliament that/he visited Prime Minister's house several times, particularly after getting tack for Formosa, Taihuku which is unbecoming of a Judge and the person of One-man-Commission. Khosla also gave fifts to the then Prime Minister, as alleged, your petitioner states that such act and mental disposition of Justice Khosla proves the extranneous influence on the Report of findings of the said Commission.
- 23D. Justice Khosla considered some evidences after concluding the Commission but the law does not permit to do so. There were also other facts which concluded that the carriage of proceedings of the Khosla Commission were not done in accordance with law.
- 23E. The report and findings of Khosla Commission are based on non-consideration of relevant facts and materials on record containing interalia, British Intelligence Report, Intelligence Report of the Govt. of India (Lavell Govt.) and Intelligence Reports and Inquiry Reports made by Governments of other countries; most pertinent evidences of highly important persons like Dr. B. Ramchandra Fao, complete evidence of Mr. D.C. Chakraborty, Captain MI-3, advertence to irrelavant facts and materials and vitiated by extranious considerations and influence, bias and

prejudice, if not malice against Netaji Subhas Chandra Bose. The said report and findings are not based on any objective at present of the evidence on record and no reasonable person acting honestly and bonafide and with proper application of mind and with a sense of responsibility could have arrived at such perported conclusion which Justice Khosla did in his report, solely with a view to denigrate Netaji and to please some persons or Kothari of persons.

23F. Your petitioner states that the perported acceptance of the Khosla Commission's Report by the Govt. of India as perported to be notified in the Memoranda dated 2nd September, 1974, Xerox copy thereof have been supplied to your petitioner by the Ministry of Home Affairs under the order of the Hon'ble Court are invalid, stale and non-est after the subsequent Parliamentary debate on the subject and the then Prime Minister's statement dated 28th August, 1978 on the floor of the Parliament.

Assuming, though not admitting, that such perported acceptance still holds the ground, the same is not based on any objective consideration of the said report with any or any proper application of mind and such acceptance is wholely erroneous and perverse also for the reason for which the said report and findings have been impugned herein before.

23G. It appears that the motion of Professor Samar Guha objecting to the report of the Khosla Commission was disposed of during the Emergency in the absence of mover then imprisoned at the wake of Emergency.

in the new Parliament constituted in the year 1977 by
moving a fresh motion in the Lok Sabha for a discussion of

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following the said motion the then Prime Minister, Shri Morarji Desai made the following statement in the Floor of the Lok Sabha:-

"The Prime Kinister (Shri Morarji Desai);
Mr. Chairman, Sir, I may differ sometimes from my Hon'ble
friend, Mr. Samar Guha, but I can never doubt, even in my
sleep, his sincerity. I have great admiration for the
dedication with which he is pursuing this cause and yet we
have to be realistic in this matter.

There have been two inquiries into the report of the death of Netaji Subhas Chandra Bose in the air crash on 18th August, 1945 at Taihoku air field during his air-journey to Manchuria, one by a Committee presided over by Maj. General Shah Nawaz Khan and the second by a one man Committee of Inquiry headed by Shri G.D. Khosla, a xxx retired judge of the Punjab High Court. The majority report of the first Committee and Shri Khosla held the report of the death as true. Since then, reasonable doubts have been cast on the correctness of the conclusions reached in the two reports and various important contradictions in the testimony of witnesses have been noticed. Some further contemporary official documentary records have also become available. In the light of those doubts and contradictions and these records, Government find it difficult to accept that the earlier conclusions are decisive. At the same time, Government feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my Hon'ble friend will withdraw his motion". C.

- 23H. Your petitioner states that the respondents in their affidavit-in-opposition to the writ petition, the Supplementary Affidavit in support thereof and the interlocutory application have not disputed such a statement having been made by the then Prime Minister on the floor of the House, except that according to the deponent of the said affidavit, the above statement was made in the Lok Sabha on 28th August, 1978%
- 231. Your petitioner states that despite the above rejection of the report and findings of the Khosla Commission by the Prime Minister of India in the floor of Parliament in the year 1978, the Government of India has purported to place reliance not only on the said report and findings of the Khosla Commission but also the report and findings of the Shah Nawaz Committee constituted in the year 1956. No material containing any decision by the Government of India upholding their earlier acceptance of the reports and findings of the Netaji Inquiry Committee 1956 and the Netaji Inquiry Commission 1970 notwithstanding the above statement of the Prime Minister on the floor of the Parliament in the year 1978 or in support of the contention of the Under Secretary to the Government of India, Ministry of Home Affairs that the above statement of the Prime Minister of India does not amount to outright rejection of the said reports and findings.
- 23J. Your petitioner states that in view of the above statement by the Prime Minister of India in the floor of the Parliament in the year 1978 in the debate following the motion of Professor Samar Guha reopening the consideration of the report and findings of the Khosla Commission the said report and findings stand rejected by the Parliament

and the earlier acceptance of the said report and findings of the Khosla Commission by the Government of India stands nullified.

- 23K. Your petitioner states that in the premises the Government of India or its subordinate authorities and functionaries can not rely on the reports and findings of the two earlier inquiries in purporting to contend that Netaji Subhas Chandra Bose died in the alleged air-crash in the Taihoku air-field on 18th August, 1945, nor can they justify the purported "Bharat Ratna" on Netaji in the year 1992 being described as posthumous, particularly when There are no materials to show or establish that Netaji Subhas Chandra Bosed died on any subsequent date prior to the conferment of the said purported Award. The foundation of the purported reasoning given in the Affidavit-in-Opposition filed on behalf of the Government of India about Netaji's death in pretended justification of the said award being described as posthumous having already been demolished after a full-fledged debate in the floor of the Parliament by the above statement of the Prime Minister of India in the year 1978. It is not open to the Government of India to describe the said 'Bharat Ratna' as posthumous, nor to justify such a description by pretended reliance on the report and findings of the Netaji Inquiry Committee 1956 or the Netaji Inquiry Commission 1970.
- 23L. Your petitioner states that pursuant to the direction of this Hon'ble Court the respondent No. 1 supplies to your petitioner copies of memorandum dated the 2nd September, 1974 and the office Memorandum dated the

2nd September, 1974 of the Ministry of Home Affairs,
Government of India showing that copies of the following documents that forwarded to the Lok Sabha and Rajya Sabha Secretariat respectively for being laid down on the table of the said two houses of the Parliament:

- i) Copies in English and Hindi including one authenticated copy of each of the report of the one man Commission to inquire into the disappearance of Netaji Subhas Chandra Bose.
- ii) Copies of the Memorandum of the action taken on the report (in Hindi and in English) in accordance with the provision of Section 3(4) of the Commissions of Inquiry Act. Copies of the above documents supplied by the said respondent are annexed hereto and marked collectively with the letter "D".

It appears from the above documents that the Government of India decided to accept the findings of the Netaji Inquiry Commission 1970 to the effect that Netaji died in an air-crash on the 18th August, 1945 at Taihoku air-field in Taiwan and the said report was placed before the House as required under Sub-Section (4) of Section 3 of the Commission of Inequiry Act, 1952.

Committee 1956 was an adhoc body constituted by the Government of India and it did not have the legal character of a Commission set up under the Commission of Inquiry Act.

No materials have been disclosed about the acceptance by the Government of India of the report and findings of the said Committee or about any proceeding of Parliament in connection thereof. On the other hand, the appointment by the Government of India of the Netaji Inquiry Commission

"B"

1970 under the provisions of the Commission of Inquiry

Act to go into the self-same question with a wider terms

of reference itself washed away the reports and findings

of Shah Nawaz Committee and the purported acceptance thereof,

if any, by the Government of India. The pretended reliance

on the report and findings of the said Committee by the

Government of India for the purpose of justifying the

description of the said 'Bharat Ratna' purported to be

conferred on Netaji Suchas Chandra Bose in the 1992 of

posthumous is, therefore, of no avail.

25. Your petitioner states that in view of the functioning of the High level investigative inquiry Committee, as ordered by the Government of India in '80s, the Report and findings of Khosla Commission become a non-est and/or null and void. Your petitioner craves leave to refer and rely the correspondences on the part of Govt. of India in this regard.

Commission and it's perported acceptance by the Govt. of Indi if any, should therefore be quashed and set aside in the ends of justice and also in the paramount Nation's interest. The Award of the 'Eharat Ratna' on Netaji Subhas Chandra Bose, perported to be made posthumous by the Press Comminique dated should also been declared as illegal, unconstitutional and ultra vires, not only because it can not be describe as posthumous but also because conferring of such Title/Award/Honour on him is tantamount to an attempt to deminish this elevated status for reasons stated in the presiding paragraphs.

The copy of the said Press Comminique is annexed hereto and marked with the letter "C".

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On 22nd September, 1993 this Hon'ble court was pleased to grant leave to your petitioner to make necessary amendments to the writ petition. Leaves was also given to the supporting respondents to filed supplementary affidavits. This amended writ petition has been prepared and affirmed accordingly.

On 22nd September, 1993 this Hon'ble Court was pleased to grant leave to your petitioner to make necessary amendments to the writ petition. Leaves was also given to the supporting respondents to filed supplementary affidavits. This amended writ petition has been prepared and affirmed accordingly.

- 27. That no application is pending before this # Hon'ble Court or any other Court for the same self cause of action.
- Being aggrieved by and dissatisfied with the mechanical decision and total non-application of mind and/or purposive malicious intentions on the part of Government of India with regard to conferring the Bharat Ratna' to Subhas Chandra Bose and that too posthumously without having any official declaration of the death of Subhas Chandra Bose, your petitioner begs to move this application under the Constitutional writ jurisdiction without prejudice to each other amongst the other following:

QROUNDS

- I. For that the Government of India has never decisively admitted and declared that Subhas Chandra Bose is dead and without having such official declaration and/or admission, the Government of India cannot Honour him with a discription posthumously.
- II. For that the machanical approach and non-application of mind on the part of the Government of India, have prejudiced the profound feelings and admiration of the people throughout the country for Subhas Chandra Bose

and Government of India should withdrew/recall the Bharat Ratna conferred upon Him as a mark of true-honour to Him.

- III. For that in the National Interest the Government of India should withdraw, cancell, revoke and rescind the impugned Bharat Ratna' conferred upon Him posthumously by setting aside/quashing the impugned press communique, being annexure "C" to the writ petition.
- IV. For that the Government of India should not have ranked

 Him with others receipients of the 'Bharat Ratna' should

 not have limited Him by awarding Him the 'Bharat Ratna',

 may it be regarded as the highest civilian Honour.
- V. For that the Government of India should not have awarded

 Him the 'Bharat Ratna', as his achievements were much

 more glorious and magnificient than any award/honour/title.
- VI. For that a statutory and functional recognition by way of conferring HIM an award / title/honour has vertually dishonoured Him and as such the Government of India should re-consider the matter de-novo and till such afresh decision the 'Bharat Ratna' should not be handed over to anybody or any institution on His Behalf.
- VII. For that His contribution and secrifice, success and achievements, struggle and petriotism could not be

matched with or ranked by any award/honour, title may it be the highest civilion honour the Bharat Ratna.

- VIII. For that before conferring Him the award the Government of India ought to have consider these aspects whether the award itself would reward or ridiculer him, would honour or dishonour and defame, Him, would aprisiate or deprisate Him since every award has it's congenial limitations and as such award is not meant for every body.
- IX. For that whom the President of India, Mr. V. V. Giri addressed 'The first President of Free India';

 Sarbapaili Radha Kishman described as "The Superman";

 Rabindranath offered his tribute as "Deshmayak" in 1939;

 Gandhiji honoured with unamiguous term"The Patriot of patriots, the Prince of Patriots" conferring Him the 'Bharat Ratna' is an psychological absurdity or dead-proof of 'purposiveness'.
 - For that the Bharat Ratna' is considered the highest civilian honour given from the office of President and Subhas Chandra Bose was the main architect of the Freedom of India and as such, such an erroneous and unconstitutional functioning on the part of the Government of India cannot be appreciated.

- XI. For that the well manouvered long drawn practice of
 "Netaji-apathy" along on the part of the Government of
 India run by Congress proves squarely that not to honour
 His success and sacrifice, nor to regard Him the impugned
 "Bharat Ratna" was conferred upon Him but that was done
 for some other purposes.
- III. For that the Government cannot take the plea that he is dead in the eye of law as he is unheard of more than 7 years from the date of his alleged report, of death, i.e. from 18th August, 1945, sincethe Government of India did not admit even in 1978 that Subhas Chandra Bose is dead and subsequently ordered for another investigative inquiry.
- Alli. For that without having any endeavour to get the true and real facts about the disappearance of Subhas Chandra Bose after the changed International political circumstances which has become conducive to reveal the facts, the Government of India should not declare him dead by awarding him just posthumously.
- XIV. For that the impugned earlier acceptence of Khosla Commission's Report and findings was subsequently anuled by the Government of India on 28 August 1978.

W. For that aparat from the statements of the then Prime
Minister made on the floor of the Parliament on 28kx
23 August 1978, anulting the egriler acceptance of Khosia
Commission, the statements of the President of India in
two occassions, statement of the speaker of the Parliament,
the statement of the Minister of State for the Ministry
of Home Affairs made on the Parliament, the realising of
the book 'Netaji - Dead or Alive?' by the President of
India in the Parliament Annexee in a State function proved
beyond all doubts that the Government of India never

XVI. For that had the report and findings of Khosia Commission been accepted as decisive, the Government of India would have brought the so called mortal remains of Netaji from Rankoji Temple, Japan.

accepted the reports and findings of Khosla Commissions.

- AVII. For that the reports and findings of Shah Nawaz Committee,

 1956 became an absolute non-est as soon as the khosia

 Commission was appointed, and that apart the respondent

 authorities can not act and rely upon the report of a

 Committee which was not appointed by Commissions of

 Inquiry Act.
 - XVIII. For that the report and findings of Khosla Commission was viciated by deliberated non-consideration of, inter alia, the fallon documents records namely;

- a) War records of the U.K.Government relating to Subhas Chandra Bose and I.N.A.
- b) War records of the U.S. A.
- c) War records of the U.S.S.R.
- d) War records of the Japan
- e) War records of Germany (both East and West) from 1941 to 1943.
- f) War records of China
- g) Prime Ministers Secretariat file during the period of Nehru.
- h) History of I.N.A. by late Dr. Pratul Chandra Gupta
- 1) Nehru's Letter to Mr. Attlee during 1945 to 1947 relating to Subhas Chandra Bose.
- j) Communication between Louis Fisher to Gandhi,
 Khurshed Nacroji, President of the U.S.A., P.M.
 of the U.K. and other top political leaders of
 the U.K. respectively, relating to Netaji.
- In "Top Secret" documents relating to Netaji thying Enxthexe in the possession of the then U.S.S.R. National Archives.

- Perverse and a nullity in itself since it did not considered the relivent facts and evidences; it considered irrelevant facts and evidences, it debt paskspasks partially with the relivent facts and evidences and partially with the irrelivent facts and evidences and partially with the irrelivent facts and evidences.
- YX. For that a man of common sence and average sense of reasoning with a minimum judicial aptitude would not have arrived at the findings and conclusions at which justice Khosla arrived, that were also squerely evident from the Parliamentary debate on the Motion of Prof Semar Guha, Ex. M.P. on Reports and finding of Khosla Commission remarkably unanimous voice of the Members, opposed by none
- XXI. For that intercise the existence of malicious intentions of justice Khosla, the prejudged disposition, travelling beyond the terms of reference, holding the dommission with a made-kp-mind deliberate non-consideration of purticement partinent and material efficiences, and the conduct and formulae belief approach not fair and justice the part of a commission substantially and conclusively proved beyond any lota of doubt the invalidity, illegality and maisfide of the Reports and findings of the Khosla Commissioners.
- XXII. For that by conferring the 'Bharat Batha' posthumously upon Subhas Chandra Boso is otherwise illegal official

impugned earlier acceptence of the Reports and findings of Khosia Commission was anuled by the Government of India in 1978 which is not at all permissible under the law.

- XXIII. For that the Government of India took the comouflage of awarding Subhas Chandra Bose posthumously to put an end to the Inquiry(s) which has already stanted functioning and yet to be concluded satisfactorily tom unvail the truth relating to the allehed report of disappearance of Subhas Chandra Bose.
- XXIV. For that conferring the 'Bharat Ratna', posthumously to Subhas Chandra Bose is an unprecedented 'case of conviction without trial' and as such the 'Bharat Ratna' should be withheld unless and until His death is conclusively proved and officially declared.
- KXV. For that that the Government of India has not admitted the death of Subhas Chandra Bose after the reports of Shah Nawaz Committee and Khosia Commission and the Government of India headed by Chandrasekhar ordered for another investigative. Inquiry commission to be concluded on the unsolved mystery of the disappearance of Subhas Chandra Bose and without having the conclusive report of the said high level enquiry commission thus ordered, the Government of India cannot now declare a person 'dead' by awarding him posthamously.

XXVI. For that citizen of India have the freedom of information and the Government of India cannot afford to neglect the responsibilities and liabilities of furnishing the information, specially which is involved in the National Importance.

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XXVII. For that the right to know is a fundamental righ and infringement of that right by 'State-mechanism' is violative of Constitution and further to that right to know is concomitent to the National emblame carrying a constitutional primise' Shyatameba Jayate!

in not investigating the 'unsolved mystery' relating to the death of Subhas Chandra Bose whereas He was the main architect of the Freedom of India.

XXIX. For that this application is made in the National
Interest and keeping pace with the National feelings
and sentiments which all Indians still retain about
Subhas Chandra Bose.

XXX. For that before declaring him officially dead in the camouflage of avarding him posthumously, the Government of India should strive to find out in every quarter of the World whether Subhas Chandra Bose is dead or not, if deadwhen he died, now he died, where he died and what happened to the dead body, failing which would amounts to a Mational Crime.

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AXXI. For that the Government of India cannot declare a person dead without being satisfied substantially, evidenthally and documentarily about the death and cannot declare a person dead by way of awarding him posthumously and as such, the impugned posthumous 'Bharat Ratna' should be withheld until and unless the death is officially declared by the Government of India.

XXXII. For that the Government of India owe an explanation and obligation to Her people, being a Republic Country, to speak out the truth on the basis of record and evidence and the same can not be circumvented by making a posthumous description.

Bose left for the then Soviet Union under the camuoflage of the report of the plane crash and spent the rest of his life over there, may be against his pleasure and the Government of India conferred him the 'Bharat Ratna' posthumously on January 23, 1992 without having any inquiry officially in the political State Inteligence Archives of the then Soviet Union which is now easy accessible to all after the breaking of Soviet Union in December 25, 1991.

XXXIV. For that before allegely declaring Him dead the Government of India wh should order for a commission to be constituted by a highly technically efficient men for fishing out with all sincerity the information from all possible corners of the Globe which is also very available now in the changed International Political situation.

- **XXV. For that since the 'Bharat Ratha' has been once conferred to Him posthumously, the Government of India can not afford to shrink in discharging it's responsibilities and can not evade it's obligations to find out and establish the truth beyond all doubts about the said 'mystery' even if, the 'Bharat Ratha' is subsequently withdrawn or revoked as a mark of true respect a to Subhas Chandra Bose.
- Your petitioner submits that since the people of India 29. have not admitted and accepted the conferring of Bharat Ratna to Subhas Chandra Bose as a mark of Honour and Recognition to Him, and as such through out the country, irrespective of political faith and belief, the people have critisied this decision and declaration of Government of India and demanded withdrawal and/or cancellation of the 'Bharat Ratna' conferred to Him. The question of conferring the 'Bharat Ratna' to Subhas Chandra Bose was raised in the floor of West Bengal Legislative Accembly and the entire Assembly, without any reservation, conveyed the request to the President of India, who was then in Calcutta, to cancel the 'Bharat Ratna'. A citizen's convention was held on 22nd February, 1992, at Calcutta University contenary Hall to demand immediate withdrawl of the said posthumous 'Bharat Ratna'. Neither from His family nor anybody from Government of West Bengal went to receive the 'Bharat Butna' on His behalf on 28th March, 1992 at R Rastrapati Barvan, on the occassion of Bharat Ratna award giving carimony or thereafter. The Authority has decided to handover the Bharat Ratna to His family on his behalf on the second occassion, held on 6th April, 1992, at & Rastrapati Bhavan finding no other alternative to such situation. But none accepted

the 'Bharat Raina' on His behalf. The Authority concerned must re-consider the decision of conferring Him the 'Bharat Raina' and to withdraw the same as a special Case.

Your petitioner further submits that the fundamental 30. responsibility of Government of India to make a full and faithfull discipsure of all the facts and records. The wrod secret, specially in political arina, is a relative factor. Nothing could be secret for infinite time span. The Secret Files/ Documents of Government of India of 1950 is no more of that secrecy as on to-day. With the rasping of time the necessity of secrecy is forfited in itself. If any thing is kept secret perpitually, then it becomes conclusive that the matter is made secret purposively. Award or no award, even the search of a missing citizen must come to an end at some state of conclusiveness. There is no doubt that it would be much honour if His countrymen could know the truth and fact about His misterious disappearance and suspected detention in some foreign country against dis will, than to treat the 'Bharat Ratna' as posthumous either by presumption or by suppression of facts. It is not known whether there exists an actual mystery of a mystery has been created to hold back the truth from the Indian people. The openion sustains in public mind in this respect that the most evasive and mysterious stands had been reserted by the Government of India, at least till 1991. It is of no use making any enquiry in a mysterious way to solve a mystery. This is not an inexplicable mystery, but the Government of India alone had been striving to make it inexplicable.

- Although quite in the day the quest for the truth has arisen once again in the context of the announcement about the impugned posthumous "Bharat Ratna" and let us only hope that the quest itself does not turn out to be posthumous or abortive. People have to be a told in precise terms and with fullest details if the expression "posthumously" has any legitimate foundation.
- 32. Your petitioner states that there are provisions under the procedure to withdraw, cancell, revoke and rescind the 'Bharat Ratha' once conferred upon somebody.
- Truth, "country must know what happened to Netaji". The Government can not evade it's responsibility obligation in just conferring 2 a functional "State Honour", It is not the question of "Dharat Ratha" or "No Bharat Ratha" posthumous or not-posthumous; It is the question of R Truth and Truth along. The Government of India, in it's Matichal emblame promises "At the service of the Truth" (Shyatameba Jayate).

For the same of Truth, the Government should and must undertake all endeavours with all honesty and sincerity to : find out the fact and to public it to the countrymen.

34. No demand of is justice has been served upon the respondent, since that would be mere ornamental in maintaining the procedure.

36. Your petitioner states that for the sake of Truth and for the ends of justice, a multi-body high level Investigative Inquiry committee be constituted to unearth the truth and facts beyond all doubts relating to the unsolved mystery of the disappearance of Netaji.

and effective forum is available to him and there will be a total redressal of the Mations wide public grivances and complete justice to a Mational question.

37. This petition is made conside and for the ends Justice.

pleased to grant leave to your petitioner to make nacessary smendments to the writ petition. Leave was also given to the supporting respondents to filed supplementary affidavits. This amended writ petition has been prepared and affirmed accordingly.

Under the facts and circumstances, your petitioner most respectfully prays that Your Lordships be graciously pleased to issue;

- a) A writ or in the nature of mandamus
 to desue commanding the Respondents Nos. 1 an
 2 and their servants, subordinates and agents
 to 1 -
- 1) act and proceed according to law ;
- ii) recall, rescind, cancell, and revoke the 'Bharat Ratna' purported to be conferred on Netaji Subhas Chandra Bose posthumously by the press communicate dated (being Annexure A to the writ petition);
- iii) notify such recalling, recommation (cancellation and withdrawal), to the general public in proper manner;
- iv) forbear from handing over to any person or persons, institution or institutions any document or insignia or symbol containing the impugned 'bharat Ratna' or any communication bearing reference thereto for acceptar ce or preservation or display or for any other purpose;

v) forbear from describing Netaji Subhas
Chandra Dose as a receipient of the impugned
'Dharat Ratna' in any books or publications
of the Government of India either for official
use for any dissemination of information
to the people of India or abroad;

- b) A writ or in the nature of mandamus do issue commanding the respondents Nos. I and 2 and their servants, subordinates and agents to to recall, rescind, cancel and revoke their purported acceptance of the Wetaji Inquiry Commission 1970 and any decision or order relating thereto including those surported to be contained and/or conveyed in the memorana dated the 2nd September, 1974 (being Annexure B to the writ petition);
- commanding the respondent nos. I and 2 and their servants, subordinates and agents to. declare full particulars of the whereabouts of Netaji Subhas Chandra Bose from 18th August 1945 till date on the basis of records and information at their disposal de horse reports and findings of the Netaji Inquiry Committee 1956 and the Netaji Inquiry Commission 1970 and if no such information is available, to institute a proper investigation into such whereabouts with a view to locating him, if

alive, and bringing dim to India with due honour and dignity and if he is found to have died, to furnish full particulars of his stay from 18th August, 1945 onwards and His subsequent death and the place and manner of disposal of his mortal remains.

- d) A writ or in the nature of Mandamus calling upon the respondents suthorities to form and constitute a 'high-level' Investigative Inquiry Committee" to unearth the truth and facts beyond all doubts related with the unso wed mystery of the disappearance of Subhas Chandra Bose.
- e) A writ or in the nature of certiforari do issue calling upon the respondents to certify and transmit the complete records of the case containing the proceedings of the Netaji Inquiry Commission, 1970, its acceptance by the Government of India, the revocation of such acceptance, if any, on the basis of the statement of the Frime Minister of India dated the 28th Augus:, 1978 in the floor of the Parliament, the making of 'Bharat Ratna' to Netaji Subhas Chandra Bose posthumously so that conscionable justice may be rendered by quashing and/or setting aside the same to such extent and in such manner as may be deemed just and proper";

- findings of the Netaji Inquiry Commission 1970 and its purported acceptance by the Government of India are invalid, inoperative, null and void and the matters stand concluded by the statement of the then a Prime Minister of India given in the floor of the Parliament on 28th August, 1978 Anat such purported findings of the said Commission as well as Netaji Inquiry Committee 1956 are not decisive for the reasons given in the said statement;
- g) Any other writ or write, order or orders direction or directions as may be considered necessary to grant complete protection and remedy;
- h) Rule Nisi in terms of prayers (a) to (g) above and if the respondents fail to show cause or sufficient cause the same may be made absolute;
- 1) Injunction restraining the respondents Nos.

 1 and 2 and their servants, subordinates and

 agents from giving any effect or further effect

 to the impugned confirment of the 'Bharat

 Ratna' on Nataji Subhas Chandra Bose as

 notified in the Press Comminique dated 22

 January and from acting in furtherence and/or

 in nursuance and/or on he basis of the

impugned report and findings of the Netaji
Inquiry Commission 1970, the impugned
acceptance thereof by the Government of
India and/or the impugned 'Bharat Rahna'
to Netaji Subhas Chandra Bose posthumously
in any manner whatsoever;

- j) Ad-interim order 12x in terms of prayers
 above till disposal of this application;
- k) Such other and/or further order/orders, direction or directions as may be deem fit and proper.

And for this Act of kindness, your petitioner, as in duty bound, shall ever pray.

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AFFIDAVIT

I, Bijan Chosh, son of Sri Benoy Krishna Chosh, aged about 37, by occupation Advocate, practising at High Court, Calcutta, residing at B-172, B.E. College, Howrah-3, do hereby solemnly affirm and say as follows:

- 1. That I am the writ petition and I am well acquainted with the facts and circumstances of the case.
- 2. That the statements made in paragraphs 1 to are true to my knowledge

and those made in paragraphs
excepting Last paragraph are derived from records and newspapers
and rest are my humble submissions before this Hon'ble Court.

Prepared in my offibe.

Deponent (Advocate)

Advocate

Solemnly affirmed before me this the day of November,

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দেশনায়ক বেশনায়ক বুবীশুনাশ ঠাকুর

म्हाकच,

वाकानी किंव याति, वारनारम्भित्र इर्छ रणानार समनाम्नाहरू नम् वर्ष किंव। गौणा वर्षना, मृद्रगण्ड इकाक्ठी वादरवाद व्यावर्ग्स इन । मृद्रगण्डि व्यावर्ग्स वर्षना वर्षना वर्षन किंव। गौणा वर्षन किंव इक्ष, करनेर भौकित स्मान व्यावर्गनात्र स्मान स्मान वर्षामा वर्षणा वर्षन किंव इक्ष, करनेर भौकित स्मान व्यावर्गनात्र स्मान वर्षणात्र व्यावर्गतात्र व्यावर्गतात्र व्यावर्गतात्र व्यावर्गतात्र व्यावर्गतात्र व्यावर्गतात्र वर्षा विकास वर्षणां वर्षामारस्म वर्षणां वर्षामारस्म वर्षामा विकास स्मान वर्षणां वर्षामारस्म वर्षामा वर्षणां वर्षामार स्मान वर्षणां वर्षामा वर्षामा वर्षणां वर्षणां वर्षामा वर्षणां वर्षणां वर्षामा वर्षामा वर्षणां वर्षणां वर्षणां वर्षामा वर्षणां वर्षणा

বাহিরের আঘাতে বখন দেহে কত বিশ্তার করতে থাকে, তখন নাড়ীর ভিতরকার সমস্ত প্রস্থা বিষ জেগে উঠে সাংবাতিকতালে এগিরে আনে। অত্তর-বাহিরের চক্তমতে অবসদপ্রত মন নিজেকে নিরামর করবার প্রশারি প্রয়োগ করতে পারে না। এইরকম দুক্তমনরে একাতেই চাই অননু আত্মপ্রতিষ্ঠ শারমান প্রব্যের দক্ষিণ হলত, বিনি অর্যান্তার পথে প্রতিকলে ভাগাকে তেলের সংগা উপোন্য করতে পারেন।

স্ভাকত , তেনের রাত্মিক সাধনার আরত্তক । তোনাকে দ্রু তেক দের্ভেছি। সেই আলো-অধিয়ের অস্পত করেন তোনার স্থাপে সংশ্বে জিলেছ মনে, তোনাকৈ স্পূর্ণ ক্রিন্স করত পিরা অনুভব করেছি, ক্রনো দেরেছি তোনার হ্যু, তোনার দ্রুলতা, তা নিজে মন প্রীভৃত হরেছে। আর তুমি বে 222

আলোকে প্রকাশিত, তাতে সংশারের আবিলানা আর নেই, মধানিনে তোমার পরিচর সংস্পাণী। বহা অভিজ্ঞান্তাকৈ আবাসাং করেছে তোমার জাঁকন, কর্তবাক্ষেত্রে দেখলমে তোমার বে পরিপতি তা থেকে পেরেছি তোমার প্রকা জাঁকনী-শারির প্রমাণ। এই শারের কঠিন পরীক্ষা হরেছে কারা-মহাখে, নির্বাসনে, দহসাধা রোগের আরমণে; বিছাতে তোমাকে অভিভাতে করে নি; তোমার বিরুক্তে ক্রেছে প্রদারিত, তোমার দ্বিতিক নিত্র গ্রেছে দেশের সামা আতিক্রম করে ইতিহাসের দ্রা-বিস্তৃত ক্রেছে। দহখে তুনি করে তুল্লেছ সহযোগ, বিত্তকে করেছ সোপান। সে সভব হয়েছে, যেহেতু কোনো পরাভবকে তুনি করাত্র সতা বলে মানো নি। তোমার এই চারির শারিকেই বাংলাদেশের অভ্যারের মধ্যে সন্ধারিত করে। দেবার প্রয়োজন সকলের চেয়ে গ্রেছের।

নানা কারণে আত্মীয় ও পরের হাতে বাংলানেশ যত-কিছু স্যোগ থেকে বিভিত্ত, ভাগ্যের সেই বিভ্ন্তনাকেই সে আপন পৌহ্যের আকর্ষণে ভাগ্যের আশীবাদে পরিণত করে তুলরে, এই চাই। আপাতপরাভবকে অন্যাকার করার বে বল জায়ত হয়, সেই স্পর্যিত বলই ভাকে নিরে হাবে জয়ের পথে। আল চারি দিকেই দেখতে পাই বাংলাদেশের অকর্য অনুষ্ট তাকে প্রভার নিতে বিম্ম, এই বিম্মুখতাকে অবজ্ঞা করেই সে যদি মৃত্যু ভিত্তে বলতে পারে আয়ারকার দ্যুগ বানবার উপকরণ আছে আপন চক্তিত্রে মধ্যেই; বাধা হয়ে হদি সেই উপকরণকে রুখে ভা-ভারের ভালা ভেতে সে উথার করতে পারে, তবেই সে বভিবে। হিয়ে দ্যুসময়ের, পিঠের উপরে চতেই বিভাক্তির পথ উন্ধার্ণ হতে হবে, এই দ্যুসাহাসিক অভিযানে উৎসাহ দিতে পারবে ত্রিম, এই আশা করে তোমাকে আমাদের যারানেতার পনে আহ্বান করি।

পারি। আমাদের সকলের চেত্রে দর্মহ সমস্যা এইখানেই। বিশ্ব কেন বলব বিদি কেন প্রকাশ করব সংলার। মিলতেই হবে, কেননা দেশকে বঁচাতেই হবে। বাঙালী অদ্ভাকত কর্ত্ব অপমানিত হত্রে মহবে না এই অল্যাকে সমস্য দেশে তুমি জাগিয়ে তোলো, সাংঘাতিক মার খেরেও বাঙালী মারের উপর মাধা তুলবে। তোমার মধ্যে অক্লান্ত তার্ব্য, আল্রান্ত প্রতিম্পে আলাকে অবিচালিত রাধার দ্বিবার শব্বি আছে তোলার প্রকাশত বাংলার প্রতিবে । সেই শ্বিধাত্ত্বন্দ্র মৃত্যুল্র আশার পতাকা বাংলার জীকনক্ষেত্র তুমি বংন করে আনবে, সেই ক্মনার আল তোমাকে অভ্যর্থনা করি দেশনক্ষকের পদে, অসালিণ্ধ দ্বেন্ত্ব

কঠে বাঙালী আল একবাকো বলুক, তোমার প্রতিষ্ঠার জন্যে তার আসন প্রসূত। বাঙালীর পরুপর বিরোধের সমাধান হোক তোমার মধ্যে, আঘ-সংশারের নিরুসন হোক তোমার মধ্যে; হীনতা ভাষ্কত ও দীনতা বিকৃত হোক তোমার আলশে, জারে পরাজ্জে আপন আখস্কলম অক্ষারাখার খারা তোমার মধানা সে বজা কর্ক।

বাঙালী নৈয়ানিক, বাঙালী গতি স্কা যাছিতে বিতক কেরে, কর্মউলোগের আক্রন্ড থেকে তের পর্যাত বেপরীত, পক্ষ নিয়ে বাধাবাহির গবে
প্রতিবাদ করতে তার অন্তাত আনন্দ, সমস্ত দ্বির চেয়ে রাম্ম সাধানের
ভাঙন লাগানো দ্বিতিত তার উংস্কা: ভূলে যাব এই তাকি কৈতা নিক্মা।
ব্যাধর নিক্ষন পোন্দেলতা মাত্র। আজ প্রয়োজন হয়েছে তকে র নব, ম্বতভাগত
ইক্ষার। বাঙালীর সন্মিলিত ইক্ষা বলা কর্ক তোমাকে নেতৃহপদে, সেই !
ইক্ষা তোমাকে স্থিতি করে তুল্কে মহা দালিছে। সেই ইচ্ছাতে তোমার ব্যাধিক্ষাত আত্রা করে আবিত্তি হোক সমগ্র দেশের আধ্যবন্ধ।

বাংলদেশের ইচহার মতি প্রকাশন প্রভাক করেছি বপালগারোধের আন্দোলনে। বপাকলেবর শ্বিমা-ডত করবার জন্যে সম্মাত মুজাকে প্রতিহত করেছিল এই ইছা। যে বস্বদশালী শাঁষ্ট্র প্রতিপক্ষে। বাঙালী সেদিন ঐক্যাবধ হলেছিল, সেই রাজশ্বির অভিপ্রায়কে বিপর্যাত করা সাভব কিনা এ নিয়া দেশিন কিজের মতো তর্ক করে নি, বিচার করে নি, কেবল সে, সমশত মন শিয়া ইছা করেছিল।

ভার পরবভাবিসনের গুলামে (genciation) ইন্ডার অন্নিগভ'র্শ দেখেছি বাংলার ভর্মদের ডিবে। দেশে ভারা দাপ জনালাবার জন্যে আলো নিয়েই জন্মছিল, ভূলা করে আগ্ন লাগাল, দশ্য করল নিজেদের, পথকে করে দিল বিপয়। কিন্তু দেই লার্ব ভূলের সাংঘাতিক বার্যভার মধ্যে বীর ফ্লেয়ের যে মহিমা বার হয়েছিল সোলন ভারতবর্ষের আর কোষাও তো তা দেখি নি। বালের সেই ভ্যাগের পর ভ্যাগ, সেই ম্যুখের পর ম্যুখ, সেই ভাদের প্রাণ নিবেলন, আল্ নিফলভার ভ্যান্যং হয়েছে কিন্তু ভারা তো নিভাবি মনে চির্বালনের মতো প্রমণ করে গ্যেছ বাংলার দর্শের ইন্ডালারকে। ইভিয়াসের এই মধ্যায়ে অসহিল; ভার্যগার বে ফ্রেছবিদারক প্রমান দেখা দিরেছিল, ভার উপরে আইনের লাখনা যত মনী লেপন করক তব্য কি কালো করতে পেরেছে ভার অন্তানিহিত ভেলাফ্রতাকে।

আমরা দেশের দৌর্বারের লক্ষণ অনেক দেখেছি, কিন্তু দেখানে পেরেছি তার প্রবল্ঞার পরিচয়, দেইখানেই আনানের অলা প্রকল্প ভ্রমতের প্রতালা করছে। দেই প্রতালাকে সম্পূর্ণ প্রাণবান ও ফলবান করবার ভার নিতে হবে তোমাকে; বাঙালীর ম্বভাবে বা-কিছ্ লেড, তার সরসতা, তার কম্পনার্বার, তার নতুনকে চিনে নেবার উম্জনে দৃষ্টি, রাপস্থিতির নৈপ্রা, অপারিচিত সংস্কৃতির দানকে গ্রহণ করবার সহল শার, এই-সকল ক্মতকে ভাবের পর থেকে কাজের পথে প্রবল্প করবার সহল গার, এই-সকল ক্মতকে ভাবের পর থেকে কাজের পথে প্রবল্প করবার সহল বার ন্তন প্রায়ন লাগিভাকে দরে করে তারাসকভার আবরণ থেকে মন্তে করে নব বস্তেত ভার ন্তন প্রাপ্তক কিল্লালিত করবার স্থিতিক ভ্রমত হবে। তার ন্তন প্রাপ্তক কিল্লালিত করবার স্থিতিক ভ্রমত ব্যাহণ করে। তার ন্তন প্রাপ্তক কিল্লালিত

বলতে পার, এত বড়ো কাল কোনো একলানর পক্ষে সম্ভব হতে পারে না। সে কথা সভা। বহুলোভের, খারা বিজ্ঞিভাবেও সাধা হবে না। একজনের কেন্দাক্যণে দেশের সকল লোকে এক হতে পারলে তবেই হবে অসাধাসাধন। থারা দেশের যথার্থ ম্বাভাবিক প্রতিনিধি, তারা কথনেই একলা নন। তারা স্ব'জনীন, স্ব'কালে তানের অধিকার। তারা স্ত'ন্মনের গিরিস্ট্রের দাড়িরে ভবিষাতের প্রথম স্ব্বেনিরের অর্বাভাসকে প্রথম প্রগতির অর্বালন করেন। সেই কথা মনে রেখে, আমি আজাতোনাকে বাংলালের রাজনৈতার পনে বরণ করি, সণের সংগ্রান বারনাকরি তোনার পাদেবা সমন্ত ক্লেকে।

অমন ভূল কেউ বেন না করেন বে বাংলাদেশকে আমি প্রয়েশিকতার অভিমানে ভারতবর্ষ থেকে বিজিন্ন করতে চাই, অথবা সেই মহাঝার প্রতিবাসী আসন স্থাপন করতে চাই, রাঝাথমে যিনি প্রথিত ন্তন ব্লের উন্বোধন করেছেন, ভারতবর্ষ হৈ বিনি প্রসিশ করেছেন সমস্ত প্রথোর কছে। সম্প্র ভারতবর্ষের কছে বাংলার সন্মিলন বছতে সম্পূর্ণ হর, ম্লাবান হর, পরিপ্রেণ কলপ্রস্ হয়, বাতে সে রির্মার হয়ে পশ্চাতের আসন গ্রহণ না করে, ভারই জনো আমার এই আবেনন। ভারতবর্ষে রাম্মিকন বজের বে মহদন্তান আজ প্রতিষ্ঠিত, প্রতোক প্রদেশকে তার জনো উপবৃত্ত আহ্বাহিতের উপকর্ষ সাজিবের আনতে হবে। তোমার সাধনার বাংলাদেশের সেই আজাহ্বিত বোড়শোপচারে সত্য হোক, ওজন্বী হোক; তার আপন বিশিপ্তা উপকরণ হবে উট্ক।

বহুকাল প্ৰে' একদিন আর-এক সভার আমি বঙালী সমাজের অনাগত অধিনায়কের উদ্দেশে বাদীন্ত পাঠিরেছিলান। তার বহু বংসর পরে আজ আর-এক আকাশে বাংলাদেশের অধিনেতাকে প্রতাক্ষ বর্ণ করছি। দেহে মনে তার সংশে কর্মক্তের সংযোগিতা করতে পারব আমার সে সমর আজ গেছে, শাঁৱও অফল্ল। আল আমার শেষ কর্ডবার্পে বাংলাদেশের ইচ্ছাকে কেবল আহলে করতে পারি। সেই ইচ্ছা ভোমার ইচ্ছাকে প্রণ শাঁরতে প্রবৃষ কর্ক, কেবল এই কামনা জানাতে পারি। তার পারে আশীর্বার করে বিরায় নেব এই क्षान ख स्टर्पंड स्ट्रांचर ट्रांम ट्रांमाइ व्यापन महत्त्व वेद्वह, प्रार्माह नार्षक महीत অগ্রসর হয়ে আসছে তোমার চরম প্রেক্সার বংল ক'রে।

[माडाराज्य मानार्क करिमा क दरीव्यमाद्द लागा वह व्यक्षकानिक खायन. ১০০১ সালের যে মাসে লিখিত ও মুদ্রিত হয়, কিন্তু তখন উহা প্রচার হয় না। —सामम्यामाद निक्रिः। नाद 'कोनावद' वात्र्व व्यव वृष्टि ।]



3507/93/02ic

S. K. Kundu Central Govt. Advocate.

SPEED POST

D.O. No. 15/B/Home/93/747 718 A

Dated 30th November, 1993

(DEPARTMENT OF LEGAL AFFAIRS)

णाखा सचिवालय BRANCH SECRETARIAT 4, किरण शंकर राय रीड, कलकत्ता-700 001 4, K. S. ROY ROAD, CALCUTTA-700 001

भारत सरकार
GOVERNMENT OF INDIA
विधि और न्याय मन्त्रालय
MINISTRY OF LAW & JUSTICE.
(विधि कार्य विभाग)

Dear Shri Bhatia.

Kindly refer to your D.O. No. 1/27/91-Pub. dt. 26th November 1993 in connection with C.O. No. 6720(w)/93 (Bijan Ghosh -vs- Union of India & Ors.).

The parawise comments forwarded by you along with your above mentioned D.O. has been forwarded to Mrs.Arati Dutta, Advocate on-record for preparing the draft Affidavit-in-reply and to have it settled by Shri R.N.Das, Senior Advocate at an early date. As soon as the same is done, the draft will be forwarded to you by SPEED POST.

I am forwarding herewith a copy of the application filed by Shri Samar Guha, Ex M.P. in the above mentioned case. A copy of his book titled "Netaji Dead or Alive " has also been forwarded along with the copy of the application. The book is not being forwarded as the same may be available with you. I have already forwarded the other papers which have been received in the meantime from the different parties. An early action will be required at your end. Since time is very short, I would like to suggest that a competent person with the comments may come over to Calcutta for affirming the affidavits which will be drafted and settled by the counsel engaged in this matter.

I am sure that you have already made arrangements for appearance of one of the learned Addl. Solicitor Generals in the above mentioned Case. It would have been better to seek appearance of Shri K.T.S.Tulsi, learned Addl. Solicitor General as he has already appeared in the Case once. However, it is your discretion.

With regards,

Encl: As above.

Yours sincerely,

(s K kundu) 1 92

Shri V.P.Bhatia, Under Secretary (Pub.& Vig.) Ministry of Home Affairs, North Block, New Delhi 110001

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so choo frt

23/11/93

Mr. B. Kundu.
Sr. Central Govt. Advocate,
4, K.S. Roy Road, Ministry of Law and Jus. Lie
Calcutta - 1.

In Re: C.O. 6720 of 1993 Bijan Ghosh

- Vs -

Union of India & Ors.

Dear Sir,

Having been added as a party respondent in the above mentioned matter by the Order dated 22.9.93 passed by the Hon ble Hr. Justice Shyamal Kumar Sen, I am filing this affidavit.

Thank you.

Son Ray (1993)

Yours faithfully, Camar Sinha (SAMAR GUHA)

FORMER MEMBER OF PARALIENT
8/2 CENTRAL PARK, CALCUTTA 700037

Mai lan

Fy. 5985/24/2/93+117

DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction,

(Appelate Side'

IN THE MATTER OF :

An application under Article 296 of the Constitution of India

AND

IN THE MATTER OF :

A writ in the nature of Mandamus;

AND

IN THE MATTER OF :

A writ in the nature of Certiorary;

AND

IN THE MATTER OF :

'Any other Writ and/or Writs, order and/or orders, direction and/or directions;

AND

IN THE MATTER OF

The highest Civiliand Azard 'Bharat Ratna' conferred upon Subhas Chandra Bose posthumously without having any official declaration by Union of India of His death and/or admission of His death;

AND

IN THE MATTER OF

'Right to Know' is an extension of Fundamental Rights:

AND

IN THE MATTER OF :

Bijan Ghosh, Advocate,
practising at High Court at Calcutta,
S/o, Sri Benoy Krishna Ghosh,
B-172, B.E.College, Howrah-3.

.... PETITIONER

- VERSUS -
- 1. The Union of India represented through the Secretary, Ministry of Home Affairs, New Delhi-1.
- The Union of India.
 Service through the Secretary,
 Ministry of Human Resorces, and
 Development Department, New Delhi-1

.... RESPONDENTS

3. A,iya Nath Bose

5/0. Sarat Bose

226/4A, Netaji Subhas Chandra Bose Road,

Calcutta - 700 040.

4. Sunil Krishna Gupta,

38, Bidhyasagar Street, Calcutta-700 009.

5. Susanta Kumar Mitra,

5/0 Late Nilmony Mitra,

25-Am Bag Bazar Street, Calcutta-700 006.

6. Samar Guha, son of Late Binode Kumar Guha, 8/3, Central Park, Calcutta-700 032

... Added Private Respondents.

To

The Hon'ble Mr. A.M. Bhattacherjee, Chief Justice and His Companion Justices of the said Hon'ble Court.

The humble petition of the petitioner abovenamed.

Most Respectfully Sheweth :

Having been added as a party respondent in the above stated matter this affidavit is affirmed.

contd...3.

309 A FFI DAVIT

I, Samar Guha, son of late Binode Kumar Guha, aged about 75 passed by to Houble Mr. Justice Shyamal Kerman Cen, residing at 8/2 Central Park, Jadanpur, Calcutta 700 032, do Lereby say 2 affirm as follows.

1. That I am the added suspendent no. 6, being added as a south suspendent by Boder dtd 22. 9.93 passed by thought Mr. Justice Shyamal human Sen and I am well a grainty in the facts and Surrecumbances of the Case.

2. THE STATEMENT IN THE ABOVE PARAGRAPHS, ARE

TRUE TO MY KNOWLEDGE.

Prefared by me Sdf Samar Conha

Sdf Jamas Gruha (SAMAR GUHA)

FORMER MEMBER OF PARALIENT 8/2 CENTRAL PARK, CALCUTTA 700032.

OSTHUMOUS AWARD OF BHARAT RATNA TO NETAJI SUBHAS CHANDRA BOSE IS IT JUSTIFIED ?

I. INTRODUCTION

- I. M. Lord! please allow me to say a few words, while introducing myself to you, before presenting my Affidavit on oath. I am son of late Binode Kumar Guha, residing at present at 8/2 Central Park, Jadavpur, Calcutta 700032. I am 75 years old.
- 2. Although I had been in the revolutionary movement since my early school life and had been in internments and detentions in various jails of the British Raj, Pakistani Raj in East Bengal and in Congress Raj all total for about 15 years and had been in the Parliament for three terms and was nominated thrice as the Chairman of the Lok Sabha Privilege Committee by its Honourable Speaker, nevertheless I had never been a professional politician of the common concept. I had been in politics and still continuing in it because I love my motherland, love India in a way I am capable of.
- 3. During my youth I was deeply impressed by the saying of Vivekananda that 'India has a mission to fulfill'. This vision became the primal mantram with his ælter-ego, Subhas Chandra. This mission of Vivekananda and Subhas Chandra had gone deeply into my inner consciousness. Thus this sacred feeling that brought me and kept me in politics, as I essentially believe that politics in India has a higher mission to fulfill.

4. I had the fortune to have love and affection of the Acharyas like Satyendra Nath Bose and Jnan Chandra Ghose and it is their inspiration that helped me to secure 1st Class both in B.Sc. (Hons.) and M.Sc. and post-graduate research scholarship for higher research work. When I was released from the British prison in April 1946, my Acharyas asked me to join a Govt. College or avail a foreign scholarship to complete my higher studies in Chemistry. But that was the time, when the whole country, to dubte Gandhiji, was 'hypnotised' by the image of Promethean personality of Netaji and the saga of his INA. I begged of my Acharyas to allow me to pursue the mission of Netaji.

After serving 17 years as a whole timer since I completed my M.Sc. I joined Jadavpur University to somehow maintain my living and fortunately I was induced to write a few text books of Chemistry in Bengali by Prof. Satyendra Nath Bose and Dr. Jnan Chandra Ghose with their introduction to them, which helped to sustain me as an earthly being.

5. After entering into the Parliament, I was stunned to find that the Govt. of free India did nothing whatsoever to recognize the epic role of the Maha Kshatrya of Indian national liberation, - Netaji Subhas Chandra Bose and the Saga of his heroic INA. No, not even an emblem any kind in honour of Netaji and reverentially remembering him was found anywhere in the Farliament or the Capital City of Delhi. It appeared to me as more than betrayal of the revolutionary heritage of our freedom struggle, - yes, it was like committing meanest possible natioinal crime to that Man of Destiny but for whose decisive blow against the British Power would not have withdrawn from India so soon after its hard-earned victory in the world war. Gandhiji created the massive background of the national will to oppose the alien rule but it

was Netaji who made the final historic thrust to make them quit India Empire for good. But look! What an ungrateful nation we are! What to speak of Pakistan or Bangladesh, - even the present truncated land, which is now called India, did nothing significant to acknowledge our national debt to Netaji.

- 6. My Lord! After entering into Lok Sabha, I started with my maiden speech wholly on Netaji, charging the Govt. of their deliberate silence and negligance about Netaji. From that day I started a kind of a crusade in the Parliament in upholding the honour of Netaji and his INA. It should not be misconstituted if it is said that whatever noteworthy has been done by the Govt. in recognition of the role of Netaji in the history of our freedom struggle, it was not because of any willing initiative taken by the Govt. of themselves. The Govt. at the centre had to do something, that too haltingly, hesitatingly because of persistent agitation and somekind of thundering in the Parliament. The Govt. at the Centre do not feel even now, after passing off the Nehru-era, that they have a national duty, a sacred national obligation to fulfill towards Netaji and his INA.
- 7. The most fundamental national question still remained unanswered, what really happened to Netaji, our national liberator ? God ordained me to fight for discarding the politically motivated findings of the Shah Nawaz Committee. It was ultimately freezed to start Khosla Judicial Commission to 'inquire into the circumstances of disappearance of Netaji.' The politically prejudiced findings of the Khosla Commission were found to be worse than, that of the Shah Nawaz Committee. I torn the Report of the Khosla Commission to pieces when it was placed before the Table of Lok Sabha violating the existing rules of discipline of Lok Sabha. However, the Report was later adopted by

the Captive Parliament during the days of Emergency. I was then the leader of the Socialist group in Lok Sabha and the principal initiator of the move behind the formation of the Khosla Judicial Commission. But I was deprived of the right to oppose the findings of the Khosla Commission as I was clapped inside Rohtak jail along with other opposition leaders of the Parliament.

8. I prepared the manuscript of my book, - 'Netaji - Dead or Alive?' while in jail. It was published when Janata Party came to power in 1977. The book was released by the President of India. Shri N.Sanjiva Reddy and the meeting held in the Annexe of the Parliament House was presided over the Hon'ble Speaker of Lok Sabha. Shri K.S.Hegde, a former judge of the Supreme Court. I clearly proved that, at least the President of India and the Speaker of Lok Sabha had their explicit reservation in accepting the findings of the Khosla Commission. The UNI despatched a 32-para news-review about the book. It appeared in almost all the leading news papers of the country.

I moved a resolution in Lok Sabha for re-consideration of the Report of the Khosla Commission and presented my book 'Netaji - Dead or Alive?' to the Prime Minister, Shri Morarji Desai. Morarjibhai was first very reluctant to accept the perspective of my book challenging factually and documentarily the findings of the Khosla Commission. Ultimately, the book was sent to the Law Ministry by the Prime Minister for their opinion. After receiving Law Ministry's report, in reply to my pending motion in Lok Sabha, the Prime Minister, Shri Morarji Desai made a statement on 3rd Sept. 1979, which inter alia said "In the light of those doubts, and contradictions and those records, Govt. find it difficult to accept that the earlier conclusions are decisive."

9. Thus, the Prime Minister of India, Shri Morarji Desai categoricaly

re-opened the question - then, what happened to Netaji Subhas Chandra Bose? After his statement in the Parliament I continued my dialogue with Morarjibhai to devise an appropriate modus operendi to find its answer. Before he reached any definite conclusion about the issue Janata Govt. had to resign.

- 10. After about 10 years the issue was revived when Janata Dal Govt. came to power. The President of India on my request advised the Govt. of Shri V.P.Singh and thereafter, the Govt. of Shri Chandra Sekhar to take up the matter of an Investigative Inquiry about the issue of what really happened to Netaji. The Minister of State of Home Affairs, Govt. of India, Shri Digvijay Singh informed me in his letter No.489/DM/91 dt. 26.3.91 that the Govt. have "....already initiated an investigative inquiry about disappearance of Netaji...." But regrettably again before suchd an inquiry could be completed the Govt. of Shri Chandra Sekhar fell.
- II. I again took up the matter with the then President, Shri R. Venkatraman, who wrote to the present Prime Minister, Shri P. V. Narasimha Rao, regarding the issue of an Investigative Inquiry about Netaji, but unfortunately his response was the announcement of Posthumous Award of Bharat Ratna in the name of Netaji.
- 12. This announcement raised stormy protests all over the country. The present writ petition against such an award is a legal move to undo the doubly done wrong to Netaji by the Govt. of Shri P.V.Narasimha Rao.
- 13. A great patriotic task, the task to know what really happened to Netaji remained unfulfilled for last 45 years after India got her freedom to act freely. May be the present writ petition will help to find out a proper modus operandi to fulfil that task.
- 14. However, before I submit my Affidavit, I consider it as my duty to

express my gratitude to your Lordship for making me a party in the present case. Perhaps, this is the will of God that an Investigative Inquiry about what really happened to Netaji will be ordered by the High Court of Calcutta. - the City of Netaji Subhas Chandra Bose.

II. THE ISSUE FOR JUDICIAL DECISION

1. The main issue before the Court of judicial decisions are two.

Firstly, how and why the Govt. of Shri P.V.Narasimha Rao came to the conclusion that Netaji Subhas Chandra Bose died in an air crash at Taihoku of Formosa (presently Taipei of Taiwan) on Aug 18, 1945 ? If it because the Govt. accepted the findings of Shah Nawaz Committee and Khosla Commission as conclusive ?

Then what about the statement of the Prime Minister, Shri Morarji

Desai made on the floor of Lok Sabha on 3.9.1979 in which he
categorically refused to accept the findings of the Shah Nawaz

Committee and khosla Commission as 'decisive'?

The Govt. lawyears argued that Shri Morarji Desai's statement does not tantamount to ,any 'outright rejection' of the findings of Shah Nawaz Committee and Khosla Commission. The issue involved in the present case is not about any kind of property. - that any verdict about it may be partially accepted or partially rejected, - but the issue relates to a sharp question - whether a person died in a specific incident and on a specific date or not. Shri Morarji Desai said in his statement, "SINCE REASONABLE DOUBTS HAVE BEEN CAST ON THE CORRECTNESS REACHED IN THE TWO REPORTS (OF SHAH NAWAZ COMMITTEE AND KHOSLA DIFFICULT TO ACCEPT "BOVT. FIND IT THE TADITOD CONCLUSIONS AS DECISIVE. What is the implication of such a statement ?

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Can the findings of any report dealing with the specific question of death of Netaji can be treated as partially accepted, half accepted or negatively saying as 'not rejected outright'? Such attempt will be tantamount to be too untenable in judicial parlance.

- Shah Nawaz Committee, when a further inquiry' was ordered to inquiring into disappearance of Netaji Subhas Chandra Bose' and set up an one man judicial Commission with Justice G.D.Khosla to head it. How this dilemma was resolved by Justice Khosla? He explained in his Report "Shah Nawaz Committee had been originally accepted by the govt.

 THE MATTER HAVING NOW BEEN RE-OPENED, THE GOVT. DID NOT WISH TO PLEAD THAT THE FINDINGS CONTAINED IN THAT REPORT WERE CORRECT [Report: Khosla Commission, p.11, 3.6]. In the similar perspective the Govt. of Shri Morarji Desai might not have 'outright rejected' the findings of the khosla Commission but it had definitely 're-opened' the issue of finding an appropriate modus operandi to resolve the basic quesetion, -what really happened then, to Netaji Subhas Chandra Bose.
- 4. It is fact that Shri Morarji Desai stated in the House, in course of his reply to the motion moved by Samar Guha that "NO USEFUL PURPOSE WOULD BE SERVED BY HAVING ANY FURTHER INQUIRY." The mover of the motion also agreed that no useful purpose will be served by having another public inquiry of the type of Shah Nawaz Committee or Khosla Commission because the situation after so many years have radically changed.
- 5. But still the issue about disappearance of Netaji remained unanswered. Morarjibhai's statement said, "The Majority Report of the FIRST COMMITTEE (SAH NWAZ) AND SHRI KHOSLA HELD THE REPORT OF THE DEATH AS TRUE" HOWEVEY, "SINCE THEN. REASONABLE DOUBTS HAVE BEEN CAST ON THE CORRECTNESS OF THE CONCLUSIOINS REACHED IN THE TWO REPORTS AND VARIOUS

NOTICED, SOME FURTHER CONTEMPORARY OFFICIAL DOCUMENTARY RECORDS HAVE ALSO BECOME AVAILABLE." If so, how to resolve this 'doubts' and 'contradictions' and how to explain the facts of discovery of contemporary official records in regard to the issue of disappearance of Netaji Subhas Chandra Bose?

- 6. It is an irrefutable fact that Shri Morarji Desai re-opened the question of further investigation about the issue of disappearance of Netaji. It is now the task of the Hon'ble High Court to judicially decide what should be the modus operendi of such a probe or investigation and what should be the clear-cut objectives of such efforts to reach a final and irrevocable conclusion about what has really happened to Netaji after August 15, 1945, the day of Japanese surrender.
- 7. The second issue of decision by the Hon'ble High Court is whether it is appropriate to confer the title of Bharat Ratna on Netaji Subhas Chandra Bose ? Who is Netaji ? Is he like any other Congress leader of the days of our freedom struggle, except Mahatma Gandhi ? What he is. has been magnificiently pronounced by Mahatmaji while paying his unique tribute to Subhas Chandra Bose when he atained the majesty of the incomparable glory of Netaji. He wrote in his Harijan on Feb 4. 1946, "INA HAS CAST SPELL ON US. NETAJI'S NAME IS ONE TO CONJURE WITH. HIS BRAVERY SHINESE THROUGH ALL HIS ACTIONS." While attempting to bestow the title of Bharat Ratna on Netaji, can such a unique man of Gandhiji's evaluation be equated with Ramchandra or Rajiv Gandhi ? If Bharat Ratna, in common with other political leaders, is a misfit for Gandhiji, it is equally a misfit for Netaji. Bharat Ratna is no adoration for either the Mahatma or the Netaji, - the two Men of

Destiny of Indian freedom. It is upto your Lordship to decide whether by calling Netaji a Bharat Ratna. - it is any appreciation of the immeasurable magnitude of his personality or a crude denunciation of this epic character of the struggle for India liberation? And, thus, whether this title announced by the Govt. in the name Netaji should be withdrawn or kept preserved in hibernation?

III. BACKGROUND ABOUT NETAJI INQUIRY

- Instituted to finalise the issue of what really happened to Netaji after defeat of Japan, it is necessary to briefly recall the salient features of the whole story of the plane crash allegedly involving Netaji and the two inquiries instituted by the Govt. to verify if Netaji really met his end in the reported plane crash at Taihoku (Taipei) in Formosa (Taiwan).
- 2. Dubious First Report: On August 23, 1945, quoting a 'report despatched by the Domei News Agency, Tokyo Radio announced that "HIS EXC ELLENCY NETAJI SUBHAS CHANDRA BOSE DIED IN AN AIR ACCIDENT AT TAIHOKU ON AUGUST 18, 1945 AND HIS BODY HAS BEEN FLOWN TO TOKYO." Butin a subsequent broadcast the Tokyo Radio told, no 'Chandra Bose's body was cremated at Taihoku.
- (a) On the basis of thie report thew question arises why the news of alleged death of Subhas Chandra Bose was announced 5 days after said accident?
- (b) Secondly, why instead of issuing official commanique by the Japanese Defence Hq., which remained undisturbed after Japanese surrender the news of alleged death of Netaji was circulated by a

news agency ?

- (c) Thirdly, later it was disclosed by \$4. Ayer, former Publicity Minister of Netaji's Azad Hind Govt., in his evidence before the Khosla Commission, that the actual text of the Tokyo Radio broadcast was drafted by him, as was asked by the Japanese authority, and as such it was not, in reality, any despatch by the Domei News Agency. Why Ayer was asked to draft the text of the news broadcast for Tokyo Radio, although he had no knowledge whatsoever regarding the report about the alleged air accident and Netaji's death?
- (d) Fourthly, it should be noted further that when the news of alleged death of Netaji was communicated to the Indians at Bankok, they refused to believe it and asked for bringing the body of their leader for cremation at Singapore. The Japanese agreed to take S.A.Ayer, Information Minister of the Azad Hind Govt. to Taihoku to show him the alleged deadbody of Netaji. But the plane, carrying S.A.Ayer landed at dask not a Taihoku airport but at Taichu airport in Formosa. When Ayer got furious, he was promised to be taken to Taihoku next morning. But nbext day the plane after flying from Taichu went straight to Tokyo, instead of going to Taihoku.

If Netaji really died after the aircrash and his body existed at Taihoku Hospital, why the Japanese played such a hide and seek game with Ayer?

- (e) Fifthly, it should be noted further that no official communique cas issued either by Japan or Formosan Authority, and no Govt. of U.K, or British India or USA, who made immediate effort to arrest Bose after fall of Japan, had officially confirmed the report of alleged death of Subhas Chandra Bose.
- (f) Thus, Subhas Chandra Bose died in an alleged aircrash at Taihoku

on August 18, 1945 was made known to the world by no competent authority of any concerned Govt. but only by Tokyo Radio and that too after 5 days of the alleged accident.

- Radio 5 days after the alleged death of Netaji in order to give him sufficient time to reach his destination without alerting the Anglow-American military authority and without giving any scope to the Allied Power to implicate Japanese Govt. in executing Netaji's escape plan after fall of Japan, will it be in coherent in anyway? One thing is very clear that regarding the very first broadcast about alleged death of Netaji Subhas Chandra Bose. it remained to be reckened as an unmistakably dubious news. Strangely, neither Shah Nawaz Committee, nor Khosla Commission raised any question about the dubious nature of the news broadcast by the Tokyo Radio, reporting alleged death of Netaji.
- 3. REACHTION OF THE BRITISH GOVT. AND THE CONGRESS LEADERS: Neither the Govt. of Wavell, nor the British Govt. of U.K. agreed to believe the aircrash death news of Subhas Chandra Bose as true:
- (a) Wavel noted in his 'journal' on August 23, 1945: "I wonder IF THE JAPANESE ANNOUNCEMENT THAT SUBHAS CHANDRA BOSE'S DEATH IN AN AIRCRASH IS TRUE. I SUSPECT IT VERY MUCH. IT IS JUST WHAST WOULD GIVEN OUT IF HE WANTED TO GO UNDERGROUND."(b) On hearing the report about Subhas Bose's death Gandhiji and Madan Mohan Malavia jointly telegraphed to Bose family at Calcutta 'NOT TO PERFORM SRADH CEREMONY BUT TO HOLD MILD PRAYER."(c) On 30th December, 1945, Gandhiji told us, while meeting the detinues in Dum Dum jail that: "IF SOMEBODY SHOWS ME THE ASHES, EVEN THEN I VILL NOT BELIEVE THAT SUBHAS IS NOT ALIVE. HE IS ALIVE AND MIDING SOMEWHERE."

 •. "Thereafter he publicly said manytimes that he believed that 'SUBHAS IS ALIVE'.

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(d) After seeing Col. Habibur Rahman in Red Fort, who was the lone companion of Netaji in his flight from Saigon on August 17, 1945 and who was the only INA soldier, who persistently said Netaji died in the alleged aircrash, Gandhiji remarked, "Habie, WHATEVER YOU MAY TELL ME TO THE CONTRARY, I STILL BELIEVE IN MY HEART OF HEARTS THAT NETAJI SUBHAS CHANDRA BOSE IS STILL ALIVE. to the contrary, I still believe in my heart of hearts that Netaji Subhas Chandra B ose is still alive."

(e) Maulana Azad, while presiding over the AICC session meeting first time after thew Quit India Movement, told AICC delegates on 21st Sept 1945: "THE CIRCUMSTANCES IN WHICH THE NEWS OF DEATH OF BOSE HAS REACHED US AND THE SOURCES RESPONSIBLE FOR THE ANNOUNCEMENT DO NOT MAKE CERTAIN THAT BOSE IS IN FACT DEAD. THEREFORE, HIS NAME SHOULD NOT APPEAR IN THE LIST OF THOSE WHO DIED SINCE THE LAST SESSION AICC. "(f) Pandit Nehru told API at Jhanshi on Sept 11, 1945, "LIKE MANY OTHER PEOPLE, HE DID NOT BELIEVE THE STORY ABOUT THE REPORTED SUBHAS CHANDSRA BOSE. . I RECEIVED A NUMBER OF REPORTS WHICH HAS RAISED IN THE GRAVE DOUBTS AND I BELIEVE THE AUTHORITY OF THE NEWS. "(9) In 1975, a sensastional report appeared in the press, quoted from the BRITISH DOCUMENTS TRANSFER OF POWER - 1942-47', Which showed that the Wavel Govt. of India and the British Govt. of U.K. completely disbelieved the story of Bose's death. More about the report will be discussed later. [Ref. Netaji - Dead or Alive ? p.2-9].

No, nor justice G.D.Khosla cared to take any cognizace of the reactions of the British Govt. or the Congress leaders to assess, analyse and scrutinize their views about the report of alleged death of Netaji that was broadcast by Tokyo Radio on August 23, 1945, This was the only source of the information about alleged death of Netaji in the reported air crash at Taihoku.

- 4, WHY NEHRU TURNED ANTI NETAJI?: Till late 1945 Pandit Nehru firmly believed that Netaji did not die in the reported air crash. Finding that the Maha Kshastrya image of Netaji and the saga of patriotism of the INA sweepingly dominating the minds of the Indian people, Nehru rushed to don his forgotten lawyer's gown to appear in the Red Fort trial that it verily symbolized 'India versus England'. Thus, everybody expected that Nehru will spare no stone unturned to find out what really happened to Bose. Who in mid-thirties used to call him politically his 'elder brother'. No, he did nothing for Netaji. on the contrar, after visiting Mountbatten at Singapore in March 1946, he suddenly changed his stance to oppose everything about Netaji and INA. Why he was seized with such an odd outlook?
- then editor of Gujrati Janmabhumi of Ahmedabad, who accompanied Nehru during his visit to Mountbatten. After returning from Singapore, he met Sarat Chandra Bose at Calcutta and told him the background story. According to him, Nehru was given rousing reception by the INA men on his arrival at Singapore. The leader from the homeland was requested by him to place wreath, next day, on the spot of the INA Martyers Memorial that was sacrilegiously demolished by Mountbatten's Army soon after reoccupation of Singapore. Nehru instantly agreed. But next day, when the INA representatives went to Mountbatten's bungllow to bring Nehru to the meeting ground they were astounded to find that the Indian leader brazinly refused to attend this sacred meeting for paying homage to the INA martyers.

Amritlal Seth told Sarat Babu that while having his meeting with Nehru Mounbatten told him that according his report Bose did not die in the alleged aircrash but escaped again. Mountbatten further

warned Nehru that if he played up the legends of Boss and his INA, he would be taking the risk of presenting India on a platter to Bose when he re-appeared. This incident completely changed Nehru and made him an irriconcilably prejudiced towards Netaji. Mountbatten later, outspokenly told in his Nehru Oration Speech' that Nehru steadfastly followed his advice about Bose and the INA.

(b) Every one in India expected that after Nehru came to power in 1947, his first patrioitic move would be to institute an all-embracing inquiry to know what happened to the epic hero of Indian freedom. Nay. he did just the opposite. He made all-out effort to oppose all publi demands for such an inquiry. Nay, he did something more something most unthinkables which appeared as virtual hetraya' of Netaji. According to the evidence of Shyamlal Jair before the Khosla Commission, who was steno of Asaf Ali, when later was working as the secretary to the INA Defence Commit : headed by Bhulabhai Desai, on a date either 26 or 27th Dec mir 1945 he was asked by Nehru in Acar Ali's residence to type few copies of a letter given to him. The letter cont find an information that Subhas Chandra Bose reached Dairen in . lap Bomber and was escorted to Soviet leader by Gen. Shedei in a jeep. When the jeep returned after about three hours, the Jap plane left for Tokyo.

This letter was sent to the British Prime Minister, Mr. Attlee by

MR. CLEMENTANTAL NE

I UNDERSETAND FROM A RELIABLE SOURCE THAT SUBHAS CHANDRA

BOSE YOUR WAR CRIMINAL HAS BEEN ALLOWED TO ENTER RUSSIAN TERRITORY BY STALIN. THIS IS A CLEAR TREACHERY AND BETRAYAL OF FAITH BY THE RUSSIANS. AS RUSSIA HAS BEEN AN ALLY OF THE BRITISH-AMERICANS, IT SHOULD NOT HAVE BEEN DONE. PLEASE TAKE NOTE OF ITANDDOWHATYOUCONSIDERPROPERANDFIT.

ANNEXURE: NETAHI - DEAD OR GLIVE 7' P. 14-18 YOURS SINCERELY, SD.-- JAWHARLAL NEHRU

- could Nehru betray Netaji in such a brzen manner? It is very difficult to believe such a story. But neither Mr. Khosla, nor the lawyer of the Commission, nor anybody from the Govt. office challenged the evidence of Shyamlal Jain. Further, according to intelligence reports sent to the Govt. of Wavell, which Nehru saw when he came to power, and the copies of which were sent to Shah Nawaz Committee and Khosla Commission, Nehru was reported as having received a secret note from Netaji requesting him for his repatriation from Russia to India. Further, every Japanese or INA officers, except Rahman, unmistakably said that Netaji's destination was Russia. [Annexure: Netaji Dead or Alive? p.13-14].
- (c) Pandit Nehru made no effort to contact Stalin for repatriation of Netaji to his motherland, assuming, according to many reports, Netaji reached Russia. On the contrary Nehru did something very unethical to suppress all positive hints about Netaji's going over to Russia. In 1951 Pandit Nehru had sent S.A.Ayer, very secretly, to Tokyo to inquire from Col. Tada a former Staff Officer of F.M. Tarauchi's Head Quarter at Saigon. Nehru came to know that Lt. Gen. Isoda and Col. Tada were the persons, who worked out and executed Netaji's escape plan. Pandit Nehru read out Ayer's report in the Parliament but ashtonishingly withheld Ayer's very-important confidential note to Nehru which he attached with the main report. Ayer informed Nehru: This Time I could CATHER VERY IMPORTANT INFORMATION. Col. TADA TOLD ME THAT AFTER THE END OF THE WAR WHEN JAPAN SURRENDERED, TARAUCHI TOOK ALL RESPONSIBILITY TO

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HELP NETAJI AND ASKED HIM TO GO TO KAKA BOSE (HIS EXCELLENCY CHANDRA BOSE) AND TELL HIM TO REACH RUSSIAN TERRITORY - ALL HELP TO HIM. IT WAS ARRANGED THAT CHANDRA BOSE WILL WHICH SHEDEI WAS GOING. GEN. SHEDEI WILL LOOK CHANDRA AFTER DAIREN, AND THEREASFTER, HE COULD FALL BACK ON CONTACT RUSSIANS. JAPANESE WOULD ANNOUNCE TO THE WORLD THAT HAD DISAPPEARED FROM DAIREN. THAT WOULD ABSOLVE ALL RESPONSIBILITY IN THE EYES OF THE ALLIES." Nehru got the information from many other sources that Netaji's destination Russia. But he did nothing to contact Stalin to ascertain if Netaji reached Russia and make arrangement for his repatriate him to India. THIS INMFORMATION ABOUT AYER'S NOTE TO NEHRU ABOUT COL. TADA'S CAME TO BEKOWN IN AN OFFICIAL NOTE THAT WAS, PERHAPS INADVERTANTLY SUPPLIED BY THE GOVT. TO KHOSLA COMMISSION ALONG WITH PAPERS. 1

5. Command Performance Report By Shah Nawaz' Committee:

(a) Valuable time passed on since August 1945, — but Pandit Nehru did nothing to nitiate any inquiry about Netaji ignoring all appeals from the people. In 1950 Dr. Radha Binode Pal, who was appointed an Indian Judge in the Tokyo Trial by Nehru told Sarat Chandra Bose that the American judge told him that his country did not believe the story of Subhas Chandra Bose's death. It was after an intewresting incident that interested the American Judge to tell Dr. Pal about it. It was noted by the American judge that in course of proceedings of the Tokyo Trial, whenever Subhas Chandra Bose's name was mentioned, Gen. Tojo, Gen. Sugiama and other Japanese accused were seen to stand up and bow down their heads. This behaviour of the accused Japanese leaders amazed

the American judge. When came to know from Dr. Pal that by this way the Japanese war-time leaders expressed their respect for Bose, he told the Indian judge that he had seen the USA inquiry report about Bose. According to this report Bose's death news was cooked up and Bose safel) reached Russia. What Dr. Radha Binode Pal told Sarat babu, came to the press also. I had also the privilege to know all about it directly from Or. Pal. It was expected after this report came in the press that Nehru would call Dr. Pal to tell him all about the report that he heard from the American judge. No, he did nothing of the kind because by then, Dr. Pal turned to be a persona non-grata to Nehru for his dissenti judgement in the Tokyo trial.

(b) After this judgement, Dr. Pal's position rose very high in the eyes of the Japanese people. Meanwhile prominent citizen's of Calcutta decided in a meeting to set up a non-official inquiry committee with Dr. Radha Binode Pal as its chasirman. This news shook up Pandit Nehru and he immediately announced in 1956, 11 years after the alleged air crash involving Netaji, the formation of a Netaji-Inquiry Committee to counter Calcutta move. The Committee that Nehru formed was not a judicial commission to hold a public inquiry according to the provisions of the Commission of Inquiry Act.

Even such a committee with limited scope of inquiry was not given inhindred freedom by Nehru. When this Committee visited Tokyo, Mr. Sigemitsu, the war-time foreign minister of Japan, arranged for Committee's visit to Taiwan (Formosa) to hold an on-the-spot inquiry at Taipei (Taihoku). But Nehru outright refused to give permission for Committee's visit to Taiwan, i.e., former Formosa.

(c) Again before Shah Nawaz Committee visited Tokyo, Pandit Nehru violating all norms of a public inquiry entrusted to Shah Nawaz

Committee told Parliament, "I HAVE NO DOUBT IN MY MIND - I DID NOT HAVE

IT THEN - AND I HAVE NO DOUBT TODAY OF THE FACT OF NETAJI SUBHAS

CHANDRA BOSE'S DEATH IS, I THINK SETTLED BEYOND DOUBT. "(d) After this

statement by the Prime Minister Nehru in the Parliament, could any

committee dare to go beyond what Nehru said? Reaching Tokyo on March

4, 1956, beleagured Shah Nawaz Khan told pressmen, "THIS MISSION WAS

MAINLY TO INTERVIEW PEOPLE, WHO MIGHT OFFER DIRECT EVIDNCE OF SHRI

BOSE DEATH "Yes, Shah Nawaz Committeesimply wanted to know how Bose

died and nothing else - accepting that Bose's 'death was settled beyond

doubt'.

(e) Prime Minister already pronounced in the Parliament much in advance what should be the findings of the Shah Nawaz Committee. Although the third member of the Committee, Shri Suresh Chandra Bose, an elder brother of Netaji submitted his 'Dissentient Report'. Other two members, Shah Nawaz Khan and Sankar Maitra submitted their report. Arriving at a conclusioin in a peculiarly hazy and ambiguous terms: "AT NO STAGE WAS THEW CASKET CONTAINING THE ASHES SEALED, NO FORMAL RECEIPT ISSUED, NOR AGAIN CONTINUOUS WATCH WAS KEPT OVER IT. SO ALTHOUGH THESE CAN NOT BE ABSOLUTE CERTAINTY ABOUT IT, NEVERTHELESS, IT4 CAN BE SAID THAT, IN ALL PROBABILITY, ASHES KEPT IN THE RENKOJI TEMPLE, TOKYO, ARE THE ASHES OF NETAJI SUBHAS CHANDRA BOSE. IF THE ASHES ARE TAKEN TO BE GENUINE, RENKOJI TEMPLE CANNOT BE OBVIOUSLY THEIR FINAL RESTING PLACE.

Look! What an absurd finding it is! Who will decide with 'absolute certainty' to resolve the question of 'probability' in regard to exact identification of the ashes? Who will decide 'if the ashes are genuine' or not? Hardly one could expect such a queerly worded findings of a committee that was instituted to inquire about the fate of a supreme personality of Indian freedom like Netaji Subhas Chandra

Bose.

6. Nehru's Conscience Stated Flickering:

(a) Perhaps with aging of Nehru his conscience began to flicking about what he did to find the exact truth about disappearance of Netaji. In late fifty Nehru visited Renkoji temple to see the so-called ashes of Netaji said to be kept there. While other Indian leaders like Dr. Rajendra Prasad, Rafi Ahmed Kidwai and others, who preceded Nehru recorded rich tributes about Netaji in the temple's visitor book. But what did Nehru write ? No, he mentioned nothing about Netaji. Somehow he scribbled in it, "LET THE PEACE OF BUDDHA REIGN OVER THE WORLD". I have also seen this writing of Nehru when I visited Renkoji temple in 1959.

(b) Then again, when Suresh Chandra Bose wrote to Nehru seeking 'proof of Netaji Subhas Chandra Bose's death', Panditji replied back to him on May 13, 1962, "I CAN NOT SEND YOU ANY PRECISE AND DIRECT PROOF.." Still, the same Panditji did not feel any constraint to loudly say in the Pasrliament that 'Netaji Subhas Chandra Bose's death is settled beyond doubt.' Perhaps, a few days before his death, Panditji's conscience became free of all personal inhibitions and political equations about Netaji to reply to Shri Amiyanath Bose, a newphew of Netaji, saying, "I agree with you that something should be done to finalise the question of Netaji's death." Oh! Panditji's conscience work up 17 years after the dubious report of aircrash death of Netaji! But Panditji secretly maintained a special file on Netaji and told K.K.Sdhah, a minister later of Mrs. Indira Gandhi's Ministry, that Nehry did not believe the death story of Netaji and always directed his

Intelligence Deptt. to inquire into any news that appeared to suggest that Netaji was alive. Mir Chandani of the Ex Chief of the Central Intelligence Deptt. confirmed this in his deposition before Khosla Commission.

(7) New Move for Judicial Inquiry

(a) When I entered into Lok Sabha a new move was initiated by me for a fresh Judicial Inquiry about Netaji. A memorandum was drafted by the eminent historian, Dr. R.C.Majumder, for the purpose. More than 350 signatures were collected in signing the memorandum by members of both House belonging to all parties. Such massive memorandum of the M.P's was unprecedented in the life of the Parliament. It was first submitted to Dr. Zakir Hossain, the then President of Indian and then to the Prime Minister, Mrs. Indira Gandhi. After much agitation inside and outside the Pasrliament, and having a meeting with 45 leading members of both Houses, the Home Minister informed me nin a letter dated March 18, 1970:

"Home Minister of India New Delhi

DEAR SHRI GUHA,

PLEASE REFER TO YOUR LETTER DATED JANUARY 29, 1970,
INQUIRING ABOUT THE DECISION ON THE DEMAND FOR INQUIRY ON
DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE, WHICH HAS
BEEN DISCCUSSED WITH YOU AND OTHER MEMBERS OF PARALIEMENT ON
5TH DECEMBER 1969, IT HAS BEEN DECIDED THAT A COMMISSION
OF INQUIRY BY A JUDGE OF A SUPREME COURT OR HIGH COURT
SHOULD BE APPOINTED TO INQUIRE INTO THE MATTER. A FORMAL
ANNOUNCEDMENT WILL BE MADE'IN DUE COURSE.

YOURS SINCERELY, SD/. Y.B. CHAVAN

The decision was formally announced on July 11, 1970. A month later Justice G.D.Khosla of Punjab High Court was appointed the judge

of the One-man Commission.

(b) This Commission was an improvement over the Shah Nawaz Committee as it was a judicial commission and had all liberty to conduct a free inquiry. Secondly, the issue before the Commission was not to 'inquire into death of Netaji Subhas Chandra Bose' as had been in case of Shah Nawaz Committee, but to 'inquire into disappearance of Netaji Subhas Chandra Bose.'

It should be remembered that, - firstly, the commission of Inquiry was not set up suo moto by the Govt. but because of the persistent demand made by the majority of the Members of the Parliament, secondly, in 1970 Govt. of Mrs. Indira Gandhi was a Minority Govt., and thirdly, the judge of the Commission, Mr. G.D.khosla was choosen by the Govt. without consultation with the memorialists.

8. No Normal Approval of Khosla Findings By Parliament

- (a) Khosla Commission's Reports and Findings about Netaji-Inquiry was not adopted by the Parliament in a normal condition. It was approved by the captive Parliament during the black days of Emergency, and without any discussion. All the opposition leaders were by then gaoled under this gagging Act.
- (b) Mr. Khosla submitted his Report to the Govt. on June 30, 1974. It was placed on the Table of Lok Sabha after quite some time. A sympathetic official of the Govt. secretly gave me a copy of the Report before it was placed on the Table of the House.
- (c) I was simply horrified after going through the Report and its Findings. Could any judge having Indian blood flowing in his veins could write such an abeminable Report? Look! in 27 places of his

Report, khosla vulgained the image of Netaji the Maha Kshatrya of Indian Revolution by depicting him as the 'quesling', 'stooge', 'puppet', 'pawn' or 'tool' of the Japanese and what not. How conveniently khosla forgot that in course of proceeding of the Commission he came to know about the views of the wartime top Jap leaders about Netaji! Gen. Tojo, the wartime Premier of Japan t4reated Netaji as the 'Greatest Revolutionary of Asia' and his Foreign Minister honoured him as the 'Greatest hero of our age' and F.M Tarauchi, of the Jap. S.E.Command, - the S.E.Asian theatre of Japanese war, - looked upon the Indian leader as a 'Superman'. Was not Khosla told in course of hearing of the Commission that during the Tokyo Trial, whenever 'Chandra Bose' name was mentioned Gen. Tojo, Gen. Sugiama, Sigimitsu and all other high-ranking Japanese facing war trial used to immediately stand up and bow down their heads. Could they show such unique honour to a person if they looked upon him as a 'quisling' 'puppet' of Japan ?

(d) 224 witness, Indian and Japanese appeared before the Khosla Commission; the Govt. of Japan produced three sets of very vital documents, - namely 5 photographs concerning the alleged deadbody of Netaji, three photographs of the wreekage of alleged crashed plane or planes, certificate for cremation of the alleged deadbody of Netaji issued by the Health and Hygene Deptt. of the Taihoku Municipality in 1945; and many other documents including Habibur Rahaman's statements, special files maintained by Nehru; intillegence report of the Govt. of Wavell; a few pages of Mountbatten's Diary; British Intelligence report, etc. - Mr. Khosla brazerly ignored them either as not 'permissible' according to some Evidence Act or 'non-est' or 'ron-sequittor'.

Khosla did not ask the Govt. to find out the copies of the findings of the Mac Arthur, Mountbatten, the British Counter Intelligence Corp (CIC), Combined Services Detailed Intelligence Centre (CSDIC) and laiwan Govt. inquiries conducted scon after the story of aircrash was broadcast by the Tokyo Radio.

No, - any documentary evidence to find out actual facts behind the story of the aircrash and alleged death in it of Netaji, - Mr. Khosla did not care for to analyse. No, - he did not take into any serious consideration of the evidences of 218 Japanese of Indian witnesses for judicial scrutiny, even evidence of the high dignitories of Japan or INA were of no concern for him, - he bluntly dispensed with them simply stygmatising them as 'unreliable', 'undependable' or 'gullible'.

Col. Habibur Rahman was the lone INA companion with Netaji when the plane took off from Saigon on August 17, 1945 and it was only he and notody else, who could say what exactly happened to Netaji on August 18, 1945 next day. But Khosla brushed aside his evidence before the Shah Nawaz Committee by calling it simply 'non-est' because he did not appear before the Khosla Commission, — although the Govt. submitted all the papers concerning his interrogations by the Indian, British and American intelligence Agency and the statement he made before the Shah Nawaz Committee as valid documents for consideration of the Commission. Can any inquiry about disappearance of Netaji be completed without extremely caeful scrutiny of the various statements and evidence of Habibur Rahman?

How did Mr. Khosla came to has conclusion that Netaji died after the aircrash at Taihoku hospital on Aug 18, 1945? Out of 224 witnesses he picked up only 4 Japanese, who claimed to have travelled in the same plane allegedly carrying Netaji and Gen. Shedei for Taihoku and a

doctor, who also claimed to have treated allegedly injured Netaji at Nonmoon Hospital at Taihoku. Khosla certified these 5 witnesses as 'witnesses of convincing truth.'

Could any of these 5 witnesses produce anykind of document by the effect that 4 for them actually travelled in the same plane with Netaji or the fifth one medically treated Netaji? A list with the names of the passangers were for the first time, the Govt. of Japan submitted before the Shah Nawaz Committee in 1956, i.e., 11 years after the alleged air accident and that too giving no kind of verification about their travel permit. The doctor also failed to show any proof whatsoever to justifiably claim that he treated Netaji medically. Again none of these 5 Jap witnesses knew english or had even seen or met Netaji anytime before, except Lt. Col. Sakai and Major Takahashi, two of the 5 witnesses.

Again, none of these 'most important witnesses' Lt. Col. Nonogaki, Major Tara Kuno, Lt. Col. Sakai and Major Takahashi of Khosla's description were arrested or interrogated by the British or Americans. Dr. Yoshimi was arrested in early 1946. Further, according to the Japanese report 7 or 8 persons survived after the crash and if it was so why other co-passangers vanished from Khosla's attention? Why only Dr. Yoshimi was chosen to be Khosla's 'prima dona' witness although Dr. Yoshimi said other two doctors, Dr. Tsuruta and Dr. Ishei also attended Netaji at the hospital?

(e) Why Khosla got himself convinced that Netaji definitely died in the aircrash? Because these four co-passanger said so? But even a casual analyst of the various versions of statements of these four witnesses made before Shah Nawaz Committee and Khosla Commission, - it will be very difficult for any person not to call them as pack of

flippant liers. Again, why Khosla excluded the other two doctors from the list of his star witnesses? Because Dr. Yoshimi claimed that he signed the cremation certificate of 'Chandra Bose'. But did Khosla care to notice in whose name Dr. Yoshimi issued the death certificate? According to the official document submitted by the Govt. of Japan before the Shah Nawaz Committee and the Khosla Commission - Dr. Yoshimi issued the cremation certificate not in the name of Subhas Chandra Bose, but in the name of a Japanese soldier, - Ichiro Okura.

(f) No, Mr. Khosla should not be looked upon like a naive ex-judge that he himself did not realise how hallow could be his judicial justificastion is absolutely depending on the evidence of only 'four-plus-one' chosen witnesses in exclusion of 218 others. This will appear as nothing but like a make-believe story. To make his as much plausible as possible, he, therefore, preferred to devise a clever political thesis. He assumed that as the Japanese treated Bose as no better than a 'puppet' and a 'pawn' for their war purpose, with the 'end of the war' 'his usefulness' was 'lost' and Bose turned to became a 'dispensable ally' for them. For such a man Japan did like to take the risk to prepare a 'cut and dry plan' for removing him out of the 'area controlled by the Allies'. Thus, according to Khosla "IT WAS NOT POSSIBLE FOR JAPAN TO PRESCRIBE AN EXACT SCHEDULE and per chance getting two sets in a plane moving out Saigon with Gen. Shedei, Bose was shunted off from S.E.Asia. Further, it appeared to Mr. Khosla, this was an 'welcomed opportunity to be relived of whast must in altered circumstances have been looked upon a liability." In coming to such conclusion, what to speak of the testimonies of the Ministers of the Azad Hind Govt. and INA officers of the highest echelon, including Shah Nawaz Khan, even the evidence of

Ambassador Hachia, Negeshe and others were bluntly ignored by a man called justice Khosla, an ex-judge of the Punjab High Court!

- Leading to alleged death and cremation of Bose, Mr. Khosla devised another convenient alibi. He wrote in his findings that such things were quite naturel because of the 'chaotic condition' prevailing 'after the end of the war'. But what about Gen. Shedei, who was reported as being killed in the aircrash on August 18, '1945.? Gen. Shedei, who after being relieved of his post of the over-all command of the Burma Front was given in charge of the most prestigious Kwantang Army in Manchuria, enjoyed a much higher status than Gen. Isamaya of the Formosan Army. Why no record not an iota of it about Gen. Shedi was kept? Till mid September 1945, Jap Army remained in undisturted. Mr. Khosla conventionally ignore, almost everything about Gen. Shedei.
- (h) After going through the Report of the Khosla Commission Inquiry, I felt it will be a national disgrace if a vigorous protest is not recorded against such an ill-coceived and politically motivated Report. On the day when the Khosla Report was placed on the Table of Lok Sabha, I stood up and tore the Khosla Report to pieces and threw them in front of the Prime Minister, Mrs. Indira Gandhi. Immediately, a hullabaloo was started from the Congress bench. But Mrs. Gandhi stopped them and the Speaker also said nothing.
- (i) What I did was a gross violation of the discipline of Lok Sabha.

 But look! no step was taken against me. Indeed, it was a moral triumph of the protest against the sacreligious report of Mr. Khosla.
- (j) I moved two motions in the House one denouncing Khosla's atrociously reprehensible remarks about Netaji; and the other, for a

full debate on the Report of the Khosla Commission.

Opportunity for moving the first motion came in the budget session of 1975. In my speech, when I cited, quoting from the Report, Khosla tried to denigrate the Maha Kshatrya of Indian Revolutioin, the epic hero of our struggle for natioinal liberation, - the whole llouse turned furious in condemnation of vulgarity of Khosla. At some point of the debate almost the whole llouse started roaring against Khosla, when Mrs. Indira Gandhi was found to rushing into Lok Sabha. She immediately stood up to intervens in the debate to say: "THE GOVT. DID NOT KHOSDLA'S PERSONAL VIEWS ABOUT NETAJI OR FULL TEXT OF HIS REPORT. THE GOVT. ACCEPTED ONLY ITS FINDINGS." It was the second moral triumph against Khosla Report I But what remained of the findings if the full text of the Report was not accepted? Findings of the Khosla Commission is wholly based on the reasoning he made in the text of Report.

- (k) Regrettably I did not get an opportunity to reply to the debate I raised nor could I avail an occassion to move my next motion as Emergency was suddenly declared on June 25, 1975 and along other nationalist opposition leaders, I was also taken to detention in Rohtak Jail of Haryana State. Thus, my first motion was talked out in absence of its mover.
- (1) THE REPORT OF THE KHOSLA COMMISSION WAS ADOPTED WITHOUT PRACTICALLY ANY DISCUSSION BY THE CAPTIVE PARLIAMENT DURING THE DAYS OF EMERGENCY. IT WAS NOT, ACCORDING TO GENERAL PARLIAMENTARY BRACTICE, A NORMAL APPROVAL OF THE REPORT IN A NORMAL SESSION OF LOK SABHA. THE COMMAND PERFORMANCE REPORT OF THE KHOSLA COMMISSION WAS ADOPTED BY THE CAPTIVE PARLIAMENT WITHOUT ANY DISCUSSION.
- 9. Why Khosla Report Cannot Be Accepted As Judicial Findings ?

(a) Why Khosia Commission's Report and its findings cannot be accepted as the Report of a Judicial Inquiry, I have discussed it point by point in my desserlative treaty, - 'Netaji - Dead or Alive ?'. This is wholly based on the report of the Shah Nawaz Committee and Khosla Commission and the documents, papers, notes, etc. supplied by the Govt. to the Khosla Commission and the documents and reports published in the press, some letters found in the USA archives and my personal experiences of visit to Taiwan (former Formosa), every aspect of which I brought to the attention of Lok Sabha in some or other form of Parliamentary debates or discussions.

Thus, why Khosla Report cannot be accepted as any judicial findings I shall mention them in a nutshell citing annexure for each points.

(b) In 1977, coming back to Lok Sabha, I raised a discussion for consideration of the Report of the Khosla Commission. I spoke over the motion for about one hour and forty five minutes, demanding rejection of Khosla Report. Every participants of Lok Sabha Members in the debate supported my demand. If the motion was put to vote, it would have been unanimously adopted, but as other members wanted to participate in the debate, the motion was adjouned for some time.

Meanwhile, Home Minister, Shri Charan Singh, told me that the debate convinced him that Khosla Report should be scrapped but the bureaucrats of his Ministry opposed. He advised me to take up the issue with the Prime Minister. Before doing so, I thought it desirable to address a long letter to all the Cabinet Ministers stating reasons, in nutshell, why Khosla Report and Findings should be scrapped.

I re-state those reasons for rejection of Khosla Report with the elaborations wherever required.

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10. Reasons for Rejection of Khosla Report :

(a) 45 searching issues were raised in examining the correctness of the story of Netaji's death as has been supported by Mr. Khosla. It will be found that from the beginning of the story of Netaji's air flight from Saigon on Aug 17, 1945 to the end of deposition of alleged ashes of Netaji in the Renkoji temple, - all concerning evidences of the Japanese, their other testimonials and statements of Habibur Rahman, - are nothing but a serial of contradiction galore. Even going through this single chapter of the book - 'Netaji - Dead or Alive ?' - any descerning mind will feel how fictitious could be the story of Netaji's death after the alleged air crash at Taihoku (Taipei) on Aug 18, 1945.

[ANNEXURE: NETAJI - DEAD OR ALIVE ?, CHAPTER: JAPANESE EVIDENCE: CONTRADICTION GALORE: P. 63-128.]

(b) EVIDENCE OF CHOSEN FIVE: Out of 224 witnesses, who appeared before the Commission, Mr. Khosla selectively choose 5 Japanese witnesses from among 20 of them and called the 'most import witnesses' of 'convincing truth'. But on any impartial scrutiny of their depositions, it will be found that they proved to be nothing but a set of 5 flippant liers.

[ANNEXURE; NETAJI - DEAD OR ALIVE, CH. THE TRUTHFUL FOUR PLUS-ONE: P. 129-143] ..

(c) JUDICIAL PERJURY ABOUT CSDIC REPORT; Khosla deliberately ignored to consider various statements made by Col. Habibur Rahaman to various interrogating against and his deposition before the Shah Nawaz

Committee on plea that as Rahman did not appear before his Commission all statements and reports of interrogations etc. be treated as 'non-est'.

But Mr. Khosla, without any quams of conscience referred to many facts of Habibur Hahman's statements in his report and the building the basis of his reasonings behind the findings of the Report. For example, Khosla cross-examined B.C.Chakravarty, who, on behalf of the Combined Service Detailed Intelligence Centre (CSDIC) [British Global Ministry Intelligence of the war days]. In course of his interrogation by Mr. Khosla, Chakravarty said: "... After analysing all reports that were in Hands at the time with the CSDIC. It was obvious that Col. Habibur Nothing other than a product of conspiracy regarding the movement of Netaji subhas chandra bose on aug 18, 1045... None of them (the British Intelligence or allied command) believed that this information about-

75-page report of the CSDIC prepared by B.C.Chakravarty and then countersigned by Col. Steninsion, head of its Indian Committee, was submitted to its London Office on 31 Dec 1945.

Khosla did not make any comment about B.C.Chakravartie's evidence at the time of his cross examination by him. Although at no time CSDIC Report was produced before the Commission, yet Justice Khosla claimed at the time of writing his report that the Govt. had shown him "25-page CSDIC Report, which showed that B.C.Chakravarty indulged in 'reckless lies'.

It was in reality of reckless indulogence in judicial perjury by a jurist like Mr. Khosla because CSDIC report was never produced before

the Commission. What Mr. Khosla might have seen was the 25-page Report of Figgess, who conducted inquiry on behalf of the Govt. of Wavell. He tried to cover up him perjury by writing in another place of his report that "The report prepared by Lt. Col. Figgess was based on the record of Habibur Rahman's inmterrogation carried out by CSDIC".

This is an absurd plea as thewre was no hint anywhere in Fiogges Report that it included any part of the report of CSDIC. The Global Intelligence Agency (CSDIC) was bound to treat its report as very secret and submit its only to its London Office. Again, Figgess report was submitted to the Govt. of India on Octo 8, 1945, whereas CSDIC report was submitted to its London Office on Dec 31, 1945.

This is fact that Figgess in his report appeared to support the story of Netaji's death but with a big rider that it might also be a "master deception plan."

Mr. Khosla deliberately indulged in worst kind of judicial perjury. Otherwise he could find no way to reach his preconceived conclusion to confirm the report of Netaji's death.

[ANNEXURE: 'Netaji - Dead or Alive 7', Chapter: What Habibur Rahman Revealed:pp. 165-170.]

- (d) Further, Why Habibur Rahman's Statements Treated as 'Non-est':
- (i) Nost of the vital Japanese witnesses like Lt. Gen. Isoda, Chief of the Hikari Kikan, Col. Tada, Staff Officer of F.M Tarauchi's Headquarter, Hachia Jap Ambassador to the Azad Hind Govt., Negishi, special emmissary of Tarauchi and other and Shah Nawaz Khan, Debnath Das, Guizara Singh, Abid Hasan, S.A. Ayer and other Ministers of the Azad Hind Govt. and high-ranking INA officers and E. Bhaskasran, Netaji's confidential P.A. all of them told the Commission that

Netaji's destination after take off from Saigon on Aug 17, 1945 was Soviet Russia. Even Mr. Khosla admitted this fact in many places of his report.

- . But Habibur Rahman was only exception, who told the same story, repeatedly to all 'no, Netaji intended to go to Tokyo to have consultation with Jap authority and then return within two/three days to Singapur to surrender to the British along with his Ministers and INA men.'
- (ii) Habibur Rahman told Shah Nawaz Committee that Netaji and Gen. Shedei spent the night of 17th Aug 1945 in Morin Hotel ast Tourane. But when Shah Nawaz Committee visited Tourane, the Hotel owner denited it. (iii) Habibur Rahman said that there was a big sound of an explosion before the plane crashed, but no other co-passanger agreed with this versioin.
- (iv) Habibur Rahman's version about the plane crash differed yery materially from others.
- (v) Habibur Rahman (H.R) said that Netaji had about 4-inches cut on his head after the crash which all others denied, including Dr. Yoshimi.
- (vi) H.R told Shah Nawaz Committee that as soon as the plane crashed after nose-drive and broke near the 'Turrent' he asked Netaji, 'Age se niklaye, Age se'. How could he say so? According to description of all, the plane carrying Netaji, Gen. Shedei and others was a 'newert type bomber' without any sitting arrangements or scat-belts. If it was so after nose-dive crash all passangers and their loads would have jumbled before the Cock-pit of the plane. Still, according to description of the Japanese witnesses, some of them rushed into the Cock-pit and came out of it. In such a chaotic condition inside plane,

as described, how could Netaji move forward and get out of the plane?

There are material differences in descriptions about how Netaji got-out of the plane.

off from Netaji's body, but his trouser remained practically unaffected by fire. All the other Japanese passasngers, who clasimed to have travelled with the plane challenged Habibur Rahman to say, - no, it was they who took off both the bush shirts and the trouser from his body and he was lying on the ground wholly naked and he was taken to the hospital in that naked condition. But Habibur Rahman always insisted that Netaji's trouser remained mostly uneffected.

(viii) H.R sometimes said he was also kept in the same room in the Nonmoon Hospital at Taihoku but on different occassion told, - no, he was removed to an adjacent room. Rahman further said that Netaji remained most of the time in a state of Coma, but Dr. Yoshini claimed that he often talked with Netaji. But Rahman added a miracle in this story when he said that just before Netaji breathed his last he woke up and almost like a normalman dictated the following statement to him I have fought to the Last for India's Independence and now I am Giving my Life in the same attempt. Countryment continue the Independence Fight!

Rahman kept this statement in writing along with his stastement that he drafted on Aug 24, 1045 for keeping it along with the so-called ashes of Netaji.

But strangely, the same Habibur Rahman told Shah Committee that such statement was made to him soon after the air crash when Netaji was lying injured and bleeding in the air-field at Taihoku.

However, Dr. Yashini told Shah Nawaz Committee Bose never made any

such statement in the hospital.

(ix) II.R in his account said that after he expired Netaji's body was removed. But where he could not say. Then it was said by some witnesses that Netaji's body was kept in the same room inside a coffin written over it in big letters, - 'Chandra Bose' in Kata Kana Japanese language. Habibur did not support this version.

(x) Habibur Rahman told Shah Nawaz Committee that "Netaji's body kept in a sandal wood box and the coffin was escorted by two lories of Japanes soldiers and staff of the Hospital and Japanese officers in 4 staff cars. In one of the cars, a Japanese Gen. (probably garrison commander) also came...Japanese soldiers and compliments...a Japanese priest was also present." But Rahman could not recollect any of the name of the military or medical staff, accompanied to cremation centre. This version of the cremation arrangement was not supported by any Japanese witness. No doctor and no medical staff admitted that they accompanied the Coffin, - even the two most flippant4 Jap witnesses who claimed to be present in every scene from the flight of the aircraft from Saigon till alleged death Netaji in Nonmon Hospital, even those Lt. Col. Nonogaki, Major Tarakuna, Lt. Col. Sakai and Major Takahashi managed to vanish from the most vital scene in confirmation of alleged death of Netaji. Even Gen. Isamaya or Gen. Andoi denied if any senior officer attended cremation. Only Capt. Nagotoma and interpreter Nagaoo were present ac cording to all reports, at the time of cremation. No military honour and nothing of the kind was shown.

About cremation Habibur Rahman made miserably contradictory statements before (a) C.I.C (Figgess) Report, dated 29.9.45; (b) CSDIC Report No.1156, dated 31.12.45 and (c) Shah Nawaz Khan Committee on

6.4.56.

"after Bose's body was taken out of the Coffin and placed in the furnace. The door of the Coffin was locked and the key was kept by the Japanese military officer."

But Rahmash told Shah Nawaz Committee that cremation was done on 20th August and after the door of the furnace was locked, "I kept the key overnight."

the crematorium when ashes of Bose were collected and placed in a wooden box...then taken to a Japanese temple in the city.

Rahman, however, said to Shah Nawaz Committee that, "On the morning of Aug 21, 1945, I went to the crematorium accompasnied by 2/3 Tapanese...opened the furnasce with key which was with me."

(xiii) About the date of cremation - (A) Habibur Rahman recorded inhis written statement that it was 22.8.1945. (B) 15 days after the statement he told Mrs. Anandamohan Sahay, wife of the Secretary General of the Indian Independence League and S.A.Ayer in Tokyo that cremastion took place on 20th August "with full military honour". About the 'military honour' both Gen. Isamaya and Gen. Ando told Shah Nawaz Committee that "only a major, named Nagatomo attended the funeral"; (C) Again, he told CIC that on Sept 29, 1945, Major Nagatomo informed Rahman on Aug 21, 1945 that the body was cremated" and, "on Aug 22, 1945, the ashes were removed by Nakamura and Major Nagatomo. [17 18 70 BE NOTED THAT HABIBUR RAHMAN TOLD OTHERS THAT ASHES WERE REMOVED BY HIMM. (D) Rahman told CSDIC on 31.12.45 that "on Aug 22, 1945 at about 10.00 hrs Bose's body was removed to crematorium. On Aug 23, 1945 ashes of Bose were collected; (E) And finally Rahman made a statement

before Shah Nawaz Committee on 6.4.56, "On Aug 20, 1945", Netaji's body was cremated and "on the morning of Aug 21, 1945 collected same ashes" from the furnace.

Look! how Habibur Rahman gave different dates about cremation the alleged body of Netaji and collection of alleged ashes! (xiii) In moments of human weakness Habibur Rahman showed jumper later to Satya Ranjan Bakshi, late Sankasrlal, Debnath Das, and other close associates of Netaji that it was the dress he had on body on the day of alleged air accident and Netaji was wearing Khaki Shirt and trouser. When he was asked, - how could it happen that his more inflamable woolen dress remained unaffected but ignitable Khaki dress got4 instaneous fire ? Haboibur Rahman fumblingly saying "I am a soldier. Don's cross-examine me, please!" (xiv) Dr. Kasliwal, personal physician of Netaji told Commission that he examined the dried up spots of so called injuries in the body of Habibur Rahman. He claimed that he got burnt4 when 'he was trying to putout fire around the body of Netaji. It was found that although there was some fading marks over the dorsels of his two hands, there was not a single mark of burn or so in the palms of his hands. Dr. Kastiwal said that it was impossible to think Habibur Rahman used the dorsels of his hands to extinguish fire, but not his palms and conclude that some fading masrks in the dorsels of his hands and in one side of his face appeared as acid burns.

(xv) Haboibur Rahman gave a rectangulasr wrist watch with little burnt leather band through Bhulabhai Desai to Sarat Chandra Bose, while he was clapped in Red Fort saying that it was the watch Netaji was wearing, when the plane crashed and caught fire. But, first', whend the watch was opened on asking by Bhulabhai, it was found that the oil

inside remained completely unaffected though it was subjected to heat of the fire that engulfed Netaji according to Rahman. Secondly, all the photographs of Netaji, without any exception showed that he always used a round wrist watch and it was supported by all INA officers and Ministers of Azad Hind Govt. Netaji's personal valet told Shah Nawaz Committee, "Netaji had only one round wrist watch. He was wearing the same wrist watch on hhis last journey."

And his evidence before Shah Nawaz Committee, but refused to treat them as any evidentiary material for consideration, although the Govt. placed them before the Khosla Commission as valid documents for examination. Only Habibur Rahman could say the last word about what actually happened to Netaji on Aug 18, 1945. It should be viewed asabsurd, impossible and even rediculous to think of reaching any conclusion regarding the inquiry about disappearance of Netaji without in-depth scrutiny of all the statements of Habibur Rahman made before CIC, CSDE and Habibur Rahman. But Mr. Khosla adopted this trickery, because Habibur Rahman's various statements proved to be a mess of confusion to camouflage the escape plan of Netaji and if Mr. Khosla considered them with a free judicial mind it would not have been possible for him to make any attempt to reach a pre-conceived conclusion as he did in his Inquiry Report.

[ANNEXURE; NETAJI - DEAD OR ALIVE 7, CHAPTER: WHAT HABIBUR RAHMAN REVEALED:P. 144-178; CHAPTER; PLUNGEINTOUNKNOWN AGAIN, P. 201-231)

4. Top-Secret Soignals:

According to British Secret Headquarter's report, dated Octo 5,

1945, after studying '4-Top Secret' signals found at Bankok after surrender of Japan [REF. 'NETAJI - DEAD OR ALIVE 7, P. Z15-Z19].

EECAPE AND TO PUBLISH A FALSE STORY REGARDING HIS DEATH... THIS FILE OF TELEGRAMS (P. 216-217) ALONG WITH NUMEROUS OTHER DOCUMENTS MUST HAVE BEEN PURPOSELY LEFT FOR THE BRITISH TO FIND THEM. ALTHOUGH AT THIS STAGE ONE CANNOT RULE OUT THE POSSIBILITY OF BOSE BEING STILL ALIVE, THIS FILE OF TELEGRAMS CONTAIN FOUR MOST IMPORTANT INFORMATION, WHICH GIVES AN IDEA OF THE PLAN TO ALLOW BOSE TO ESCAPE AND TO PUBLISH FALSE STORY REGARDING HIS DEATH."

(MAINFILE-10MISC. INA,273,SUB:SUBHASCHANDRABOSE,P. 10.)

Again according to 'Top Secret' record of the "Extract from Allied Land Forces, S.E.A No.57 for weak ending, November 2, 1945 Mr. Young of the Intelligence Division, C.I.C.B, H.G. SACSEA received a letter from W Mckwright of Figgess team after "conducting further inquiries at Taihoku and Tokyo, stating, "...IT IS BEYOND DOUBT THAT HE (BOSE) HAD PLAN TO GO UNDERGROUND... THE JAPANESE HAD UNDERTAKEN TO GIVE BOSE NECESSARY PROTECTION."

Mr. Young wrote back to Mc Kwright, "... The Captured Signals State that he (Bode, Died at Midwight in Taingku Horpital and That His Roby was flown to tokyo by the formosan army. Domei on the other hand states that he died in Japan, which habibur states that he was cremasted... In tainoku. The discrepancy here is great and appear suspicious. In addition, if it is a deception plan, it is one which has been extremely carefully and ingeniously organised."

Even as late as March, 1946, two British Intelligence...remarked
"ASHES MAY NOT BE BOSES" AND "SO THE MYSTERY REMAINS UNSOLVED."

[Extract, Top Secret, SLD/CS/1, dt. 1.3.46].

After about continuous examination of Col. Habibur Rahman, CSDIC Officer commanded, "IT IS CONSIDERED THAT EVEN IF RAHMAN WAS IN THE KNOW OF BOSE'S PLAN, HE WOULD NOT DISCLOSE THEM. HIS MANNER IS NOT SASTISFACTORY. HE TELLS IN A SECRETIVE WAY EVEN IF ONE IS ABOUT."

[Secret: No.1400/23/SE; CSDIC, Red Fort, Delhi; March 25, 1946]

All these documents, found mostly in Mountbatten's Dairly, a few pages of which were submitted to both Shah Nawaz Committee and Khosla Coimmission, - were not given any attention by Mr. Khosla, while preparing his Report. The British and the American intelligence firmly believed that, Japan prepared 'carefully organised' 'escape plan' for Bose, but Khosla concluded just the reverse in his Report,

11. Taiwan Inquiry Scuttled By Khosla:

(i) It was the India's sacred national duty to send an expert intellgence team to Taiwan (Formosa) soon after Pandit Nehru became the Premier of Intereim Govt. in 1946, - atleast after he got the authority of Prime Minister's office in 1947. If an on-the-spot inquiry was done within 2/3 years of the alleged aircrash reportedly involving Netaji, - all mystery about it would have been solved.

However, Pandit Nehru not only opposed taking any initiative in this regastd, but when after 11 years he refused to allow Shah Nawaz Committee to visit Taipei (Taihoku), although all astrangements for it was made by former foreign miniseter of Japan, Sigemitju. Almost similarly, although permit for inquiry in former Taihoku (Taipei) was secured after ceaseless struggle inside the Parliament, butit was surreptitiously scuttle' by Mr. Khosla.

Three of us of the Natioinal Committee reached Taipei a few days

In advance to prepare the background for proper inquiry. We met Dr. Kur Cheng Kan, the third leading personality of Taiwan besides Madam Chiang Kai Shek and her son, and with his help mee Chief of their S.E.Asian Bureau, Governor of Taiwan, Police Chief, Intelligence Chief, Head of the Municipal Bureau, Chief of the National Library, Directors of various news papers and various other important persons of Taiwan. All of them agreed to help the Inquiry Commission.

We got the first shock from Khosla, when we went to the airport. He unsolicitously congratulated me by saying, "Mr. Guha, you have done a great-job. Delhi Times of India reported that you have already found out a nurse, who corroborated the fact about Netaji's death. After all, our job is to find out the truth." I strongly proteseted. But Mr. Khosla betrayed to us how his pre-fixed mind was working.

Mr. Khosla committeed another this mischief by holding a press conference in his Prince Hotel, immediately afterreaching Taipai. On hearing this we rushed to prevent such a move. Full-fledged press meet was stopped, but the mischief was already done. Next day, all news papers reported, "According to Mr. Khosla, Chairman of the Inquiry Commission, all the Japanese witnesses confirmed Bose's death report."

The third and the worst shock came to us, when Mr. Khosla refused to write or make any request to the Chief of the S.E.Asian Bureau for helping the Commission to enable it to hold inquiry. The Govt. of Taiwan took a stiff attitude by taking the decision not to, allow the Commission to hold any inquiry in the soil of Taiwan unless Khosla sought permission from the Govt. On our fervant pleading with Dr. Ku and others, agreed to allow the Commission to hold inquiry, but rather reluctantly. However, the Press people and the S.E.Asian Bureau and many members of Taiwan Parliament helped us very sincerely and honoured

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us, including Mr. Khosla, with dinner and receptioin.

them. Accordingly we made the first move to inspect the airport and its surrounding. We carried with us three photographs of wrecked plane, that were supplied by the Govt. of Japan to Shah Nawaz Committee and Khosla Commission. We simply dragged Mr. Khosla to the airport. He first refused to get down from the jeep, but ultimately he was compelled to visit the Meterological office of the airport.

The Chief Meteorological Officer told us that wind b lows during the month of August from North to South and as plane always take off against the wind current, the reported plane crash might have occured at the northern end of the airport and not at the southern end never near the Japanese temple and across the Kee. Lung river and the old railway line beyond the southern end of the old airport, which was lying parallel to the present airport. We further came to, know from the airport poeople that, there was no aircrash at Taihoku in the year 1945, but one B-52 American bomber and two Japanese fighter bombers crashed in the airfield in 1944. (Later this information was corroborated by other Taiwanese also).

We requested Mr. Khosla to take record of this views of the Meteorological Officer. But Khosla angrily refused and rushed back towards the jeep. No, we did not allow him to escape from the airfield. We showed him the three photographs of the wreckages of the plane and requeseted him to compare the hilly background of the photographs with the existing hilly topography along the three sides of the airport. It clearly showed that the three plane-wreckages could not be wreckages of any single plane, even if their were shapped from different angles. Again with a queer grimache in his face Khosla refused to record

anything.

(III) We again practically dragged him to the reported place of aircrash near the Japanese temple next day. Old railine from the crash spot was shifted further south, but the Japanese temple and the river Kee Lung without any bridge over it were there while inspecting the place a pertinent point aroze, that, according to evidence of Nonogaki and Tara Kuua, others, injured Netaji and Habibur Rahman was quickly takend to Nonmon Hospital. But as there was no bridge over the Kee Lung river, it required quite a long time to detour the main city to reach spot near the Japanese temple to take Netaji and Rahman and others to Hospital. Mr. Khosla showed some accommodating attitude to record this aspect, but in his final report he mentioned nothing about it.

(IV) We also inspected the cremato9rium. The man, who was in charge of the crematorium died and his son was then working in his place. When Khosla showed him a photograph from Harin Shah's book describing it to be the photograph of the man in charge of Crematorium, he flatly denied that it was his father's photograph. Mr. Khosla showed much interest about the Crematorium and its furnace, measured the opening of the furnace, if a Coffin could be pushed inhto it. He record his inspectiohn.

(v) II.V.Kamath, Prakash Vir Shastri and Mulka Gavinda Reddy - three very prominent members of the Parliament visited Taiwan on invitation from one of its private organisation. All of them told the press and Khosla Commission that the Mayor of Taipei held an inquiry on orders from Chiang Kai Shek, Head of the Govt. of Taiwan to verify if any aircrash involving Subhas Chandra Bose took place at Taihoku (Taipei) airport on Aug 18, 1945. The Mayor report that no such aircrash occurred The Govt. of Taiwan was prepared to provide a correct the

Mayor's Report, provided Mr. Khoslas wrote to them. But the Indian jurist flatly refused to write to the S.E.Asian Bureau of the Taiwan Govt, and we thus failed to secure a most vital document to prove that there was, at all, no aircrash at Taihoku on Aug 18, 1945. Khosla mentioned about the report of the Nayor in his Report, but he simply discarded it as the report of an individual, though the Mayor was the Chief Administrator of Taipei appointed by the Govt, of Taiwan.

did was on the last day of the session of the Commission. On that day a middle-aged Taiwanese witness Y.R.Tseng deposed before the Commission firmly stating that in 1944 he was a student of a school near about the Japanese temple and the old railway line. He and others of his school found a plane to crash sometime in the month of September or October, while it was landing. All the passengers in it perished. The Japanese airport authority asked the school boy to help clearing the wreckage of the crashed plane from the airfield.

After hearing this revealing evidence of Tseng, Mr. Khosla began to niddle and redicule the witness, when the Taiwanese witness furiously challenged Khoslas to bring atleast 15 of his other classmates, who participated in wreckasge clearance, before the Commission to tell the same story of the aircrash.

However, in spite of our written pleading Khosla flatly refused to extend session of the Commission by oneday atleast. Yes, Mr. Khosla did stay at Taihoku one-day more and that was for buying a suitablke present for the Prime Minister, Mrs. Indira Gandhi.

Thus all our hopes to collect most vital evidence and an irref table document to prove that no plane crashed at all in Taihoku airport on Aug 18, 1945 were dashed by the pre-fixed mental attitude of

Khoslas to support the findings of the Shah Nawaz Committee.

Co-operation of the Govt. of Taiwan and extend the session of the Commission atleast by one day, - the then Minister of External Affairs, Sardar Swasran Singh replied that what Mr. Khosla did, - he had done so on his own responsibility.

[ANNEXURE: NETAJI - DEAD OR ALIVE, CH. A, DIFFERENT STORY FROM TAIWAN, P. 40-64.]

12. Khosla Inquired Nothing About Gen. Shedei:

- Kwantung Army was going in the same plane with Netaji to assume charge of the Manchurian war front. What happened to this General whose status was much higher than Gen. Isamaya and Gen. Ando of the Formosan Army after the alleged crash? It was said that the General instantaneously died in the alleged plan crash. And what happened about any inquiry about him by the Formosan Govts., showing him necessary military honour before his cremation and reporting about his death to Tokyo Hq. nobody could say anything about this very high-ranking general. Only a non-descript ground officer of the Taihoku airport, Nagatomo claimed that he was entrusted to perform the cremation of Gen. Shedel, without anybody else having any knowledge about it. Could such a story be believed.
- (11) In the 'MILITARY RECORD ON DEATH OF GEN. T. SHEDEI' SUPPORTED by the Secretary of the Ministry of External Affairs to Shah Nawaz Committee and Khosla Commission, it was seen that Genl. Shedei's 'CAUSE OF DEAETH WAS DEATH BY WAR' and the certificate was issued by

the CHIEF OF THE KOREAN AND MANCHURIAN AFFAIRS SECTION, FIRST DEMOBILISATION BUREAU, DEMOLISATION AGENCY, Ryu-SEN-MAN No. 488.

After Aug 15, 1945, only active war field for Japan was Manchuria and if Gen. Shedei died in war, it should be somewhere in Manchuria. In his record it was stated about his 'Position - Attached to Military Headquarter in Manchuria' - and that was the reason why his record was issued by 'Koreand and Manchurian Affairs Section.'

When it was pointed out to Mr. Khosla at the time of the proceeding of the Commission that 'the document was nothing but a fraud', Mr. Khoslas responded, "YES, IT APPEARS TO BE FRAUD". But Mr. Khosla instead of analysing the mystery about death and cremation of Shedei at Taihoku and inquiring anything from the family members of Gen. Shedei, when the Commission was in Tokyo, — most gleefully recorded in his final Report about the Inquiry that Gen. Shedei's pension certificate added a corroboration about Netaji's death.

[ANNEXURE: NETAJI - DEAD OR ALIVE: SUB. CHAPTER: WHAT HAPPENED TO GEN, SHEDEI:P. 238-245]

13. Five Photographs Were Not Accepted As Evidentiary Materials:

(A) Govt. of Japan submitted 4 photographs, saying that they were photograph of - (I) DEAD BODY OF NETAJI, COVEREDIN A CANVAS BUNDLE, (II) AN URN REPORTEDLY CONTAINING THE ASHES OF NETAJI, (III) PHOTOGRAPH OF BANDAGED HABIBUR RAHMAN, AND (IV) BANDADGED HABIBUR RAHMAN SITTING BY THE SIDE OF AN URN SAID TO BE CONTAINING NETAJI'S ASHES.

Habibur Rahman said that at his insistance an other photograph of the alleged uncovered dead body of Netaji was also taken without his face. But this photograph was not submitted to either the Inquiry Committee or Commission. Why? According to Nabibur Rahman, Netaji's face got swollen, but he could recognise the face of Netaji, — then, why others of the INA and Netaji's associate would not have recognised it? Why a bunddled photograph was taken? Why photograph of an uncovered body of Netaji was not taken, if such a body existed at all? Photograph of an uncovered body of Netaji, — if he really died, even with swollen face, could prove. — if it was required after forensic test. — could have convinced any one—that Netaji really died in an aircrash. The mystery about Netaji would have been solved atonce. These photographs, instead of clearly proving the story about Netaji's death, they very pointedly indicated existance of a secretive deception—plan about the story of Netaji's death.

Indeed, these photographs verily disproved the story of Netaji's death than proving it. That was why Mr. Khosla refused to accept them as any evidentiary material for inquiry, though they were submitted by the Govt. of Japan.

Mr. Khosla in his Report noted "THE SAME FIVE PHOTOGRAPHS ARE NOT BEING RELIED UPON..." In any event, it seems that there was no point in taking photograph of Bose's face, because he had sustained such extensive burns that his face was unrecognisable. But in the same sentence he concluded by adding contradictoriy "...THOUGH IN THE FORM OF HIS BODY AND HIS MANNER OF RESEMBLE REMAINED TO MAKE IDENTIFICATION POSSIBLE."

Again Habibur Rahman hever said that 'Netaji sustained extensive burns', - on the contrary he said that his trouser remained unaffected and only his bush shirt caught fire and his head got bleeding injury.

Then he further said that after "REMOVING THE LID OF THE COFFIN HE COULD RECOGNISE THE FACE OF NETAJI."

ANNENURE:NETAJI-DEADORALIVE7:P. 248-251]

14. Cremation Permit - Having 'No Evidentary Value' for Khosla:

The Ministry of Foreign Affairs of the Govt. of Japan submitted cremation permit issued by the Health and Hygen Bureau of Taipe Municipal Office as that of Mr. Subhas Chandra Bose. It was asserted by the Govt. of Japan as a positive proof of Netaji's death.

We could with help of Dr. Ku and Taipei police Chief find out an 85-year old gentleman, Li Chen Qui, who was in charge of Cremation Department of Taihoku (Taipei) Municipality in 1945. He said some day in late 1945, a Japanese military officer came to his office with a Coffin placed in a truck for cremation permit. Generally, such a permit is given after physical verification of the deadbody by open ing the Coffin. But the Japanese Officer ordered him not to open the Coffin and straightway issue the cremation permit issued by the doctor. Being a subordinate officer he did as ordered. Mr. Li Chin Qni did not agree to appear before the Commission unless Taipei Govt. asked for it, for fear of his pension in his old age.

The Cremation permit was written in Japanese, and on translastion into English, it was found to be the Death Certificate of a NON REGULAR JAPANESE SOLDIER, ICHIRO OKURA, BORN ON APRIL P. 1901, DIED ON AUGUST 19, 1945 DUE TO HEART FAILURE. HIS BODY WAS CREMATED ON AUG 22, 1945.

Shah Nawaz Committee treated the permit certificate document as 'very valuable', but Khola rejected them as "DOCUMENTS HAVING NO EVIDENTIARY VALUE AT ALL

When the Japanese officer of the External Affairs Ministry was asked why a cremation certificate was issued in a different name, he answered in written reply, "since DEATH OF MR. SUBHAE CHANDRA BOSE WAS

KEPT STRICTLY CONFIDENTIAL AT THAT TIME, IT

IS BELIVED THAT THIS

CREMATION PERMIT OF ICHIRO OKURA MUST CORRESPOND TO THE CASE OF MR.

If Mr. Ehosla was really interested in finding the truth about disappearance of Netaji on Aug 18, 1945, he could have found the clue of a deception plan in this cremation permit.

[ANNEXURE: NETAJI - DEAD OR ALIVE, SUB. CHAPTER: FAKE DEATH AND CREMA-TIGINGERTIFICATE:P. 251-259].

15. 4-Tap Secret' Documents Found At Bankol. And Correspondence Betan Major Young of Intelligence Division. CICE. HGSACSEA And Mckwrite ignored by Khosla

These correspondences made between two top officers of Mac Arther's team and Figgess team were not given any attention by Khosla. These two teams dealt with inquiring at Tokyo and Taihoku soon after the report of alleged aircrash on Aug 18, 1945 at Taihoku and various interrogations of Habibibur Rahman. These two high-ranking officers belonging to Allied Inquiry from Singapore and US Pacific Inquiry from Mac Arthurs Headquarters, after inquiry described the story of Netaji's death as a 'deception plan ... inginiously organised.'

These documents were found in the few pages of Mountbatten's

Diary pro before Shah Nawaz Committee and Khosla Commission.

[ANNEXURE:NETAJI-DEADORALIVE,P. 215-219]

16. Nehru and Indira Gandhi's Special File - Stated As 'Missing or Destroyed' Not Given Attention by Khosla:

Inside the package of the official documents produced before the Phosla Commission, were found to contain a list of about 30 secret files of Nehru and Indira Gandhi about the affleged death of Netaji. These files, which were maintained by Md. Yunus were stated as "MISSING OR PAPERS DESTROYED". These files showed that many secret files were not serially listed and as such, what were the subjects that these files contained, nothing could be known. Prime Minister's Special Files dealt with subjects like - (1) Indian National Army (NA) in the Far East. (11) INA Treasure, (111) Invesetigation into the Circumstances leading to death of Subhas Chandra Bose, etc. Again what were the Missing Files nothing are known.

K.K.Shah, former Central Minister and later Governor of Tamil Nadu, who was a close friend of Sardar Sardul Singh and Laha Sankasrlal of Delhi, two very trusted friends of Netaji told me that Nehru told him that he did not believe about the story of death of Netaji and he maintained special files about Netaji.

Khosla never tried to know, why and under what circumstances these files were 'destroyed or missing' and he never asked Mrs. Gandhi or Md. Yunus to appear before the Commission. Might be many confidential files were witheld by the Govt. and some sympathetic officer managed to supply the list of these 'Missing or Destroyed Files', hoping that the Commission will make all-out effort to find them out. But a man calling himself a judge, Mr. Khosla, did n othin g for the purpose.

[ANNEXURE:NETAJI-DEADORALIVE,P. 212-214.]

17. Why No Question Was Raised About repeated Changes Made About the Date of Crematioin and Why the Coffin Not Allowed to be Opened by Any One

Mr. Khosla never inquired, why in the '4-Top Secret Signals' date for Cremation of alleged body of Netaji was written. August 20. 1945 and why Habibur Rahman fixed the date first for cremation as August 22. 1945 and then changed it to Aug 20, 1945, when he reached Tokyo and why Coffin was not allowed to be opened while it was displaced for 3 days in the Hospital with Netaji's name written in big letters in Japanese kata hane language over the Coffin and why the Municipal Ofdficer was also ordered not to open the Coffin to inspect the body inside and why again the whole Coffin was pushed inside the furnace without opening the Coffin ? Such inquiries would have led to findings exactly, whose body was cremated.

18. Why Hide And Sick Game With S.A.Ayer ?

Why Col. Tada promised. S.A.Ayer, to show him the alleged dead body of Netaji at Taihoku but instead of his plane landing at Taihoku, why it landed at Taichu airport and why his second promise to take Ayer from Taichu to Taihoku was broken and Ayer was shunted to Tokyo instead of landing at Taihoku?

Why Domei Agency's news was asked to be drafted by Ayer ?

Why these hide and seek game was played with Ayer? Khosla did not care to probe into these two very vital events to find out what exactly happened at Taihoku on Aug 18, 1945?

19. Why No Routine Inquiry Made By The Formosan Military Hq. ?

On questioning by Shah Nawaz Committee, if any routine inquiry was made for reporting to Tokyo Hq. Gen Isamaya, Chief of the Formosan Army

Said that he asked Lt. Col. Shibua to undertake the task. But when Lt. Col. Shibua was asked about such inquiry, he flatly denied regarding holding any inquiry and sending any report to lokyo Hq.

If any plane crashed at all at Taihoku on Aug 18, 1945 carrying such a high-ranking general like Gen. Shedei. - leaving aside the question of Netaji Subhas Chandra Bose "a dispensable ally" of Japan. according to Phosla's description of the status of Netaji, - could Gen. Isamaya neglect or avoid such an inquir, about an aircrash involving Gen. Sheder. Mr. Phosla did not consider it necessary to enquire, why Gen. Isama, a did not hold in, inquiry, if any plane crahed at laiboku on mag 13, 1945.

20. What Happened To Personal Effects Of Netaji ?

a belt

Chah Nawaz Committee showed a few personal effects of Netaji like a gold digeratte case and lighter, a paper cutting knife,

buckle, etc. to Kundan Singh, the personal valet of Netaji, who always looked after him in S.E.Asia. He identified these things as that of Netaji, - but asked how could it happen that the paper cutting knife or belt4 buckle had no sign of any burns? About the Golden Cigeratte Case. - it was presented to Netaji by Hitler, - how could Netaji carry it, - when he was going to Russia?

Aundan Singh asked further, what happened to his 'Geeta, Chandi and a crosar, and his reading glass" - which he always used to carry with him whenever he went on tour? Kundan Singh further asked, what happened to his 'leather bor containing his clothings?' He also asked, what happened to 4-boxes of gold and jewellery that Netaji took with alout the percent effects of Helani;

21. He Asting for the Peruments of Other Inquiries

Aircrash said as involving Netaji. But immediately after the broadcast by Tolice Coding about alleged death of Netaji on Aug 18, 1945, Mac Arthur's Pacific Army Eq., Mounthalten's S.E.Asian Allied Army Eq., British Team of Counter Intelligence Corp. (C.I.C) and British Global Military Intelligence (CSDIC), Wavelle Govt. under Col. Figgess and the Mayor of Taiholu (Taipei) held separate inquiries to find out if the report of Detaji's death was true. Except, the ambiguous findings of the Figgess cosm. documents of no inquiry were submitted either be appeared to any correct findings without going the light the reports of these inquiries.

22. Gross Violation of Judicial Thics By Justice Khosla:

Tile conducting 'Inquiry About Disappearance of Netaji Subhas Ch 'a Bose' justice Khosla grossly violated many judicial norms and ethics. He behaved almost lika a artial judge with a prefixed mind to support the report of Netaji's death in the alleged aircrash on Aug 18,

Without caring to act as an impartial and unbiased judge of the

Inquiry Commission in dealing with an extremely sensitive issue of what hasppened to the Maha Kshatrya of Indian 'national liberation, Mr. Khosla appeared to behave like an officer of the Govt.

Chairmanship of the Commission was (i) khosla's 13th assignment by the Gov., (ii) his wife used to regularly visit Mrs. Gandhi's house almost everyday to present flowers to her; (iii) while working as the Chairman of the Commission he attended meetings of many other Govt. appointed committees; (iv) Mr. Khosla wrote an official biography opf Mrs. Indira Gandhi, while presiding over the Inquiry Commission; (v) brought a personal present for Mrs. Indira Gandhi from Taiwan; and (vi) indulged in innumerable 'judicial perjury' while writing the Report of the Commission.

For example, he - (a) denied that Sasrat Bose's press-statement was produced before the Commissioin; (b) misquoted Gandhiji's statement, (c) by-passed many vital issues without showing any valid justification, (d) declared Habibur Rahman's various statements and interrogatioin reports as 'non-est' before the Commission but he himself vervatigly quoted from them in many places of his report, (e) in course of Commission's proceeding he called pension application of Gen. Shedei as 'fraud' but used it in his Report as a 'corroborative proof of Bose's death' and (f) worst of all, Mr. Khoslas claimed that CSDIC report was secretly shown to him by the Govt. without placing it as an exhibit before the Commission, - on the basis of which he argued to knock out the whole evidence of Biren Chakravarty, the principal CSDIC Officer, who interrogated Habibur Rahman as a 'reckless lier'. (VII) Justice Khosla published a book called 'Last Days of Netaji' almost verbatimly reporoducing his Report of the Inquiry Commission before it was placed on the Table of Lok Sabha. For this he had to

Bose, a nephew of Netaji filed a defamation case against Khosla for induiging in vulgarly disparaging remarks against Netaji. Khosla "tendered unqualified apology to 'Bose family and countrymen ... owing to the impugned passages ... in the book," and expressed to "share in common with the countrymen the deepest regard for Netaji who is regard as the liberator of our motherland," and "freezed stocks of the impugued book," and "published this apology in all leading news papers."

[ANNEXURE: NETAJI - DEAD OR ALIVE: P. 311-313.]

By the remark made by the Prime Minister, Mrs. Indira Gandhi in Lot. Sabha against Khosla's remarks about Netaji and by his own apology before the Court, - Mr. Khosla, thus, repudiated the very basis of the 'Findings' in his Report, because these remarks were the main plank of his political thesis in justification of the report of Netaji's death.

23. All About Deception Plan of Netaji's Escape Again

Death news of Netaji broadcast by Tokyo Radio on Aug 23, 1945 was nothing but a maser stroke of the deception plan of Netaji's escape from the hands of the Anglo-American Armies after fall of Japan on Aug 15, 1945. The following is the outline of the story of Netaji's Escape:

The whole Escape Plan was drawn out by Lt. Gen. Isoda and Col. Tada with the sanction of the Tokyo Army Hq. and F.M. Tarauchi of S.E. Asia Hq. It was decided that Gen. Shedei, who was appointed to take charge of the Manchurian Kwantang Army, wou'ld escort Netaji upto Dairen and from there to Soviet border and thereafter Netaji would take care about himself.

A plane left Saigon on Aug 17, 1945 with Gen. Shedei, Netaji, Col.

only to take Habibur Rahman with him for which he asked the later to hand over the office of the deputy chief of the INA to Major Gen.

M.Z.Kiani. At Bankok and thereafter at Saigon in all secret conclaves with Isoda and Tada only Habibur Rahman was called in although at the time of leaving Saigon an impression was created that as if plane could provide more than two seats. Netaji would take other important men of the INA with him. A plan like this one that was drawn out required utmost secrecy and those who were acquaginted with Netaji's earlier plan of escape from India knew well how past-master he was in preparing his plan. No body, even those who helped him to prepare the plan of his escape from India. Knew the whole company of his plan, except its small parts. He had always been a man of extremely secretive nature.

The plane landed at Tourane in north Indoi-China (present Vietnam) after dask on the same day. Habibur Rahman told in his statement that Netaji and Gen. Shedei stayed that night at the Morin Hoytel at Tourane. But on inquiry by the Shah Nawaz Committee at Tourane, it was found that what Habibur Rahman said was not correct. No other passenger, who claimed to have travelled in the same plane with Netaji and Gen. Shedei could say where bdoth of them stayed at night nor could they also say if they saw both of them to board the plane in the morning of August 18, 1945 before it took off for Taihoku.

What really happened that after reaching Tourane, Gen. Shedei and Netaji left for Dalat in the vicinity of Saigohn. Dalat was the Japanese S.E. Asian Army Hq. MR. ALFRED WAG OF CHIKAGO TRIBUNE TOLD PANDIT NEHRU, BALDEV SINGH AND SARAT CHANDRA BOSE THAT ON AUG 18, 1945, NETAJI WAS AT DALAT. THE BISHOP OF DALAT ALSO CONFIRMED THIS REPORT. IT WAS FURTHER CLARIFIED BY JAGDISH KODESIA, A FORMER PRESIDENT OF DELHI

CONURESS, VHO VISITED PALAT SOMETIME AFTER WAUS VISIT TO INDIA. HE ALEO TOLD ABOUT IT BEFORE KHOSLA COMMISSION. ACCORDING TO A COPY OF A CECRET INTELLIGENCE REPORT SUPPLIED TO SHAH NAWAZ COMMITTEE AND KHOSLA COMMISSION THAT. THE COLONGO HEADQUARTER OF THE ALLIES GOT THE INFURMATION ABOUT AN UNIDENTIFIED PLANE FLYING TOWARDS NORTH SHINA FAFTER AUG 18, 1045 AND IT IMMEDIATELY INFORMED THE RED FORT ARMY HQ. IN DELHI. AT FIRST RED FORT HQ. DID NOT IMPUTE MUCH IMPORTANCE TO THIS REPORT, LATER THEY SUSPECTED THAT IT WAS THE PLANE IN WHICH BOSE AND SHEDEI HAD FLOWN TO DAIREN.

THE PLANE WHICH LANDED AT TAIHOKU AT MIDDAY ON AUG N18, 1945 DID NOT GARRY GEN: SHEDEI AND NETAJI NOR DID IT MEET ANY GRASH THERE, - THE PLANE SAFELY LANDED AT TAIHOKU. THIS HAD BEEN CONFIRMED BY THE REPORT OF THE METEOROLOGICAL OFFICER OF THE TAIPEI AIRPORT AND THE TAIWANESE WITNESS, Y.R. TSENG, APPEARING BEFORE THE COMMISSIOIN IN ITS LAST SITTING. IT HAS ALSO BEEN CONFIRMED BY OTHER SOURCES THAT IN 1944 A US BOMBAR AND TWO JAPANESE FIGHTER CRASHED AT TAIHOKU AIRPORT.

IT WAS KNOWN TO GEN, ISAMAYAS AND GEN ANDO THAT NEITHER GEN, SHEDEI NOR NETAJI BOSE ASRRIVED AT TAIHOKU AND THAT WAS THE REASON WHY NO SENIOR ARMY OFFICER WENT TO RECEIVE THEM AT THE AIRPORT, ALTHOUGH BOTH GENERALS ASTTENDED THE AIRPORT ON AUG 22, 1945 WHEN GEN. TANAKA OF BURMA FRONT AND PRESIDENT BA MAW OF BURMA PASSED THROUGH TAIHOKU ON THEIR WAY TO TOKYO. LATER IN THE AFTERNOON ALSO NO HIGH RANKING MILITARY OFFICER VISITED TAIHOKU AIRPORT OR HOSPITAL AS THERE WAS NO REPORT OF ANY AIRCRAGH THERE.

THREE PHOTOGRAPHS OF THE WREKAGES OF CRASHED PLANE OR PLANES WERE NOT SUPPORTED TO THE ANGLO-AMERICAN INQUIRING AGENCIES, BUT ONLY AFTER 11 YEARS TO SHAH NAVZ COMMITTEE AND THEREAFTER TO KHOSLA COMMISSION.

GFTER ON-THE-SPOT EXAMINATION OF THE THREE WRECKAGES, IT WERE FOUND IN

THE BACKGROUND OF THE ACTUAL TOPOGRAPHY OF THE OLD TAIHOKU AIRPORT,
THAT THESE PHOTOGRAPHS WERE REALLY PHOTOGRAPHS OF THREE PLANES THAT
SEPARATELY CRASHED IN THE AIRPORT IN 1944.

THE PLAN CHALKED OUT BY GEN, ISODA AT BANKOK ALONG WITH NETAJI

DECIDED THAT TOKYO BROADCAST WOULD SAY THAT THE PLANE CARRYING NETAJI

AND GEN. SHEDEL CRASHED ON AUG 18, 1045, GEN. SHEDEL DIED

INSTANTANEOUSLY IN THE PLANE AND NETAJI DIED LATER IN THE HOSPITAL AT

MIDNIGHT OF AUG 18, 1045 AND HIS BODY WAS CREMASTED ON AUG 20, 1945.

ACCORDINGLY '1-TOP SECRET SIGNALS WERE PURPOSELY LEFT AT BANKOK,
ALTHOUGH ALL OTHER JAPANESE DOCUMENTS WERE DESTROYED, - SO THAT THEY

WOULD FALL IN THE HANDS OF ANGLO-AMERICANS.

MEANWHILE A NON-REGULAR JAPANESE SOLDIERS, NAMED ICHIRO OKURA, WHO
WAS ALMOST OF SAME AGE AS OF NETAJI, DIED OF HEART FAILURE IN NONMON
HOSPITAL ON AUG 10, 1945. JAP AUTHORITY AT TAINOKU AVAILED THE DEACTH
OF ICHIRO OKURA TO CREATE A REALISTIC BACKGROUND OF THE NEWS OF
NETAJI'S DEATH.

OKURA'S BODY WAS PUT INSIDE A COFFIN AND PLACED IN THE MIDDLE OF A ROOM IN NONMON HOSPITAL AND NETAJI'S NAME WAS WRITTEN IN BIG JAPANESE WORDS OVER THE COFFIN AND KEPT THERE DEMONSTRATIVELY FOR ABOUT 3 DAYS UNDER WATCH OF A SECURITY WITH STRICT INSTRUCTION N OT TO ALLOW ANY BODY TO OPEN THE COFFIN. ON 22ND AUGUST, THIS COFFIN WAS TAKEN TO TAIHOKU MUNICIPAL OFFICE FOR SECURING CREMATION PERMIT ON THE BASIS OF DEATH CERTIFICATE ISSUED BY DR. YOSHIME CONTRARY TO USUAL PRASCTICE, THE BODY WAS NOT ALLOWED TO BE INSPECTED BY THE MUNICIPAL OFFICER AS HE WAS ORDERED BY THE JAP MILITARY OFFICER. ACCORDING TO ALL EVIDENCES, EXCEPT THAT OF HABIBUR RAHMAN, THE COFFIN WAS NOT ALLOWED TO BE OPENED EVEN AT THE CREMATORIUM AND THE COFFIN, AS IT WAS, WAS PURHED INSIDE THE FURNACE. THE FURNACE WAS LOCKED BY THE JAP MILITARY OFRFFICER WHO

ACCORDING TO ALL REPORTS SOME ASHES WERE COLLECTED NEXT DAY AND PUT

AR THE BODY GREMATED WAS THAT OF A NON-REGULAR JAPANESE SOLDOIER, ICHIRO OKURA, THERE WAS NO QUESTION OF SHOWING ANY MILITARY HONOUR TO THE DEAD BODY BEFORE CREMATION AND GEN. ISAMAYA AND GEN. UNDO OR ANY OTHER SENIOR JAF MILITARY OFFICIAL HAD NO OBLIGATION TO ACCOMPANY THE DEAD BODY OF A NON-REGULAR SOLDIER UPTO THE CREMATORIUM. THE FORMOSAN ARMY HQ. ALSO DID NOT HOLD ANY ROUTINE INQUIRY TO SEND ITS REPORT TO TOKYO HQ. AS IT WAS KNOWN TO THEM THAT NO PLANE CRASHED AT TAIHOKU ON AUO 18. 1945 AND NEITHER THE BODY OF BOSE OR SHEDEI, AS SUCH, WAS CREMATED AT TAIHOKU. THIS ALSO EXPLAINED, WHY NOBODY COULD SAY ANYTHING, EXCEPT AN ALMOST NON-DESCRIPT JUNIOR OFFICER, NAGOTOMO OF THE AIRPORT, ADOUT CREMATION OF A VERY HIGH-RANKING GENERAL, JEN.

OF THE FICTITIOUS BODY IN THE NAME OF NETAJI, BUT BECAUSE OF INCHIRO OKURA'S SUDDEN DEATH THE PLAN WAS IMPROVISED AT TAIHOKU AND AS OKURA WAS CREMATED ON AUG 22, 1945, HABIBUR RAHMAN WROTE IN HIS WRITTEN STATEMENT, PLACED IN THE BUX OF THE ASHES, THAT THE ALLEGED BODY OF NETAJI WAS CREMATED ON AUG 22, 1945, BUT AFTER REACHING TOKYO, HE FOUND THAT GEN. ISODA, WHO WAS ALREADY ARRESTED, STUCK TO THE ORIGINAL DATE OF AUG 20, AS THE DATE OF CREMATION. THUS, IT COMPELLED HABIBUR RAHMAN ALSO TO CHANGE THE DATE OF CREMATION TO AUG 20, 1945.

ALTHOUGH ALLEGED DEATH OF NETAJI WAS FIXED IN THE PLAN AS AUG 18, 1945, WHY ITS NEWS WAS BROADCAST 5 DAYS AFTER AND THAT TOO IN A CONFUSING WAY ? IN THE FIRST BROADCAST IT WAS STATED THAT INJURED NETAJI WAS TREATED IN A HOSPITAL IN JAPAN, BUT IN THE SECOND BROADCAST,

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THE OFFICIAL NEWS PAPER OF TAIHOKU, TAIWAN SIN PAO', IT WAS REPORTED AS AN INTELLIGENCE BUREAU REVEAL, DRAFTED ON TAUG 22, 1945, 2 O'CLOCK PM" AND IN IT WAS WRITTEN 'IN THE PLANE THESE WAS HIGH RANK OFFICER, COL FU YAN MON, WHO SUPFERED INJURY TOO, A JAPANESE LEITEUANT GENERAL SHU CHU CHEING DIED FROM SEVERE INJURY ON THE AIRPORT AT THAT TIME."

THIS NEWS WAS PUBLISHED ON AUG 25, 1945.

tANNEXURE: Netaji - Dead or Alive F: p.2321.

Why english spelling of the name of Habibur Rahman and Gen. Shedei were not written? Why the death news of Netaji Bose was delayed to broadcast by Tolyo Radio or publish in news papers in a confusing way? It is not difficult to understand that all these confusion was created to allow Netaji t4o have sufficient time to reach his destination with the help of Gen. Shedei. Because of these confusing and cryptic news, the Anglo-American Intelligence Teams could not identify, who were the Japanese in the plane that reached Taihoku on Aug 20, 1945. They came to know the name of Dr. Yoshimi only in about 1946.

If Netaji really died in the reported aircrash at Taihoku on Aug 18, 1945, the Japanese could announce it immediately, take a photograph of an uncovered body of Netaji for showing it to Anglo-American authority, show the dead body of Bose, if it really existed to S.A.Ayer, who was taken to Formosa on a promise to show Netaji's dead body. If the Japanese took such steps, they could easily convince any one that Subhas Chandra Bose really died. And, thus, they could absolve

themselves of all suspicion the Anglo-American authorities of giving any cover for escape of Subhas Chandra Bose. According to Mr. Khosla, the Japanese looked upon Bose as a 'dispensable ally' whose 'usefulness ended' with the end of war. - and if it was so it would have been the easiest course for them to hand over the deadbody of Bose, or show the very deadbody to them or its photograph to the Anglo Americans t40 get rid of all suspicious about giving an assistance to Bose for his escape from the encroaching clutch of the Anglo-Americans, who were dead set "astrest Bose - dead or alive."

What Japan did in connection with the confusingly reported story of Netaji's death was clear indication of their anxiety to convey Netaji safely to Soviet Union, as they held 'Chandra Bose' as the 'greatest revolutionary of Asia' and 'greatest hero of our age', - to quote Gen. Tojo and Sigemebshu. This is the reason, why Tokyo Radio had broadcast the alleged death of Netaji 5 days after Aug 18, 1945.

24. Dritish Disclosure of Disbelieving About Netaji's Death:

After 30 years of the alleged aircrash involving Netaji, the Govt. of India and the Govt. of UK documentarily announced their disbelief in the VI VOLUME OF TRANSFER OF POWER - 1042-47. The Home Deptt. of the Wavell Govt. had sent a secret report to Attlee Govt. in London on Aug 23, 1945 REGARDING THEIR SUGGESTIOINS ABOUT TREATMENT OF BOSE after his arrest. 67 days after the receipt of the Report, the Govt. of Attlee approved it. Meanwhile the Govt. of UK might have had received further reports about their inquiry about Bose. The REPORT OF WAVELL GOVT. STATED: "AS REGARDS THE TREATMENT OF BOSE, THERE WERE THE

(A) BRING HIM BACK TO INDIA AND TRY HIM BITHER FOR WAGING WAR OR UNDER THE ENEMY AGENTS ORDINANCE:

(B) HAVE HIM TRIED BY A COURT IN BURMA OR MALAY FOR WAGING WAR

- (C) HAVE HIM TRIED BY A MILITARY COURT OUTSIDE INDIA;
- (D) INTERN HIM IN INDIA:
- (E) INTERN HIM IN SOME OTHER BRITISH POSSESSIOINS, E.G., SEYCHALLES ISLANDS;
 - (F) LEAVE HIM WHERE HE IS AND DON'T ASK FOR HIS SURRENDER."

After analysing pos and cons of all these suggestions, the document concluded:

IN MANY WAYS THE EASIEST COURSE WOULD BE TO LEAVE HIM WHERE HE
IS AND NOT ASK FOR HIS RELEASE. HE MIGHT, OF COURSE, IN CERTAIN
CIRCUMSTANCES BE WELCOMED BY THE RUSSIANS. THIS COURSE WOULD RAISE
FEWEST IMMEDIATE POLITICAL DIFFICULTIES...

disclosure in refuting the Tokyo broadcast about the story of Netaji's death? After publication of this document a feery storm was expected in the Parliament. But it was the time of Emergency and the Captive Parliament remained muted and nobody asked the Govt. to know, what the British documents state - "Leave HIM (BOSE) WHERE HE IS AND DON'T ASK FOR HIS SURRENDER (OR RELEASE)."

[Annexure: Netaji - Dead or Alive: p. 2-10].

This one single document of the British Govt. is enough to scrap the Report of the Khosla Commission and ask for a further Investigative Inquiry about disappearance of Netaji.

. DISAPPROVAL OF THE REPORT OF KHOSLA COMMISSION BY JANATA GOVT.

1. NEW MOVE :

- (A) After formation of Janata Govt, with Shri Morarji Desai as its Prime Minister, a Motion was moved by me on Aug 3, 1977 for reconsideration of the Report of the Lhosla Commission. The Motion was accepted by the Speaker. E.S.Hegde, a former Supreme Court Judge, for discussion by Lol Sabha, although the Captive House during the days of Emergency in 1975 had accepted Khosla Report without any discussion and in absence of the earlier mover of the Motion (Samar Guha).
- (B) Thus, the Report of the Khosla Commission was allowed to be reopened for discussion by the Speaker. The Motion was debated for quite a few hours, but as many members still deseired the participate in it. the discussion was adjourned for further debate.
- (c) Meanwhile, a few significant events happened to create a helpful backgrogund for disapproval of Khosla Report.
- (1) Netaji Subhas Chandra Bose's portrait was unvailed by the then President of India. Shri N.Sanjiva Reddy in an unprecedentedly unique function at the Central Hall of the Parliament. In course of his speech, the President said:

MANY PEOPLE SAY NETAJI IS ALIVE. IF IT IS SO, HE WILL NOT COME TO BECOME PRIME MINISTER OR PRESIDENT. WHY SHOULD BE COME FOR THAT 7 HE IS TOO BIG. WE ARE ALL PIGMIES BEFORE HIM. LET HIM COME EVEN FOR A DAY TO

to the factory of the the left of

/mi) In Harch 7. 1978. in a function held in the Annexe of the

Partitionent, the then the ident of India released my book. Netaji

Dead or Alice ?! The Speaker of the Lok Sabha Hon'ble E.S.Hegde

Particled over the function.

TET IN his speech, the free them, that Rodde saids entral is too .

BIG TO BE A MINISTER, WE ASRE NO RIVALS, LET US SEE HIM EVEN FOR A DAY.

WE ALL WANT HIM TO COME BACK, OUIDE UE AND INEPIRE US.

LOF Saltha Specific I. L. Houde said, that "during his recents visit to Japan, a product was made to him that netajis ashes he carried to India. But, I told them there were boubts about netajis death, and I refused to convey the request to the govt."

- (F) UNI despatched a 32-para news about the book.
- (a) The two speeches of the President and Speaker again showed that neither of them accepted the findings of the Khosla Commissioin as true.
 - (iii) On February 1978, N.G.Goray, the then Indian High Commissioiner in London, in a fairly long letter addressed to Lord Mountbatten, wrote: inter alia, "I would like to refer particularly to page 197, 198 and 199 of vol. VI in the Series (Transfer of Power), the Contents of which suggest that the Govt. of India Themselves were not sure of the Death of Shri Bose in the Air Crash. On the Contrary, they knew that he was alive and they were Discussing how he should be Dealt With. As you took over from Lord Wavell, it would not be wrong to presume that you must have come to know every Detail About this Incident."

LOOKED UPON HIM AS A TRAITOR. EVEN THE SUCCESSOR GOVT. LED BY A

PATRIOT LIKE NEHRU. SHOULD HAVE ADANDONED HIM TO HIS FATE. DITHE

COUNTRY WAS NEVER TOLD THE WHOLE TRUTH ABOUT ONE OF HER MOST DELOVED

THERE IS DEEP SUSPICION IN INDIA THAT SHELL BOSE TOOK ASYLUM IN

1045 IN THE USER AND ALL THIS WAS KNOWN TO YOU. TO NEHRU AND TO THE

SOVIET GOVE. BUT ALL OF YOU PREFERRED TO OBSERVE SILENCE, - AN

INTRIGUING SILENCE ... BECAUSE THE BRITISH DID NOT WANT TO PICK UP A

QUERBEL WITH THEIR ERSTVHILE ALLY AND NEHRU DID NOT WANT TO HAVE A

RIVAL.

"POSSIBLY ... A BLUNDER WAS COMMITTED BY YOU AND BY OUR GOVE. IN DECIDING NOT TO BRING BACK SUBHAS TO INDIA. ... I MAKE BOLD TO SAY THAT IF SUBHAS HAD BEEN ON THE SCENT. PERHAPS HE ALONE ... COULD HAVE SUCCEEDED TO HOLDING INDIA TOGETHER."

"WILL IT BE POSSIBLE FOR YOU TO ,SHED SOME AUTHENTIC LIGHT ON SUBHAS EPISODE ?"

- (1) Mountbatten's reply was intriguingly cryptic. He tersetly informed Goray, "...there was no official record of SHRI SUBHAS CHANDRA BOSE'S DEATH IN HIS ARCHIVES."
 - (a) In reply to almost similar questioins, both in Lok Sabha fand Rajya Sabha, dt. April 6., and July 21, 1978, Mountbatten's reply to Goray was verbatimly quoted.
- (K) How Mountbatten suppressed all facts about Netaji! After the broadcast of the news about alleged death of Netaji by Tokyho Radio, Mountbatten, then Chief of S.E.Asian Allied Army had sent a team to inquire about Bose with an instruction to "arrest Bose dead or alive." Further, a few pages of Mountbatten's Diary that were submitted to Shah Nawaz Committee and Khosla Commission clearly showed that Mountbatten Luew manything about Bose, which he deliberately declined to disclose.

Alleast in his reply to Goray, Mountmbatten admitted that he had not any report about Bose's death.

IANNEXURE: NETAJI - DEAD OR ALIVE: SUB, HEAD: MOUNTBATTEN'S

1. Too be with Shir Mosasii Peace:

Shri Morarji Desai is known in the Indian politics as a man of extremely rigid affilmed. First, he outright rejected my sugar from for rejection of the la Report. The eafter presenting my documentary book, 'Netaji Dead or Alive' to him and much arguing with him and end showing also the news papers reviews about the book, — he agreed to send the book to Law Ministry for their opinion. Morarjibhai told me that after getting the openion of the Law Ministry, the matter will be baken up in the Cabinet for consideration of the proposal for rejection of thesla Commission's Report.

Then I received a letter from Morarjibhai on Aug 26, 19978 in which he wrote:

"...Biju will get in touch with you in regard to the statement which the Govt. would want to make on whether another Committee to inquire into Netaji Subhas Chandra Bose's disappearance would serve any useful purpose."

[ANNEXURE: NETAJI - DEAD OR ALIVE, P. 309].

I had several discussions thereafter with Morarjibhai before he made his statement in Lok Sabhga. I agreed with him that no useful purpose will be served by having another Shah Nawaz or khosla Commission type fresh inquiry because the situation had radically changed and most of the concerned personalities with the plan of Netaji's escape were dead. But a categorically told Morarjibhai that if the repoorts of the two inquiries were disapproved or rejected then

country must know what really happened to Netaji. Morarjibhai agreed.

3. Statement by Morarii Decai :

"...I MAY DIFFER SOMETIME FROM MAY HON, FRIEND MR. SAMAR GUHA, BUT I NEVER DOUBT.EVEN IN MY SLEEP. HIS SINCERITY. I HAVE GREAT ADMIRATIONN FOR THE DEDICATION WITH WHICH HE IS PURSUING THE GAUSE AND VET YOU HAVE TO BE REALISTIC IN THE MATTER."

"THERE HAVE BEEN TWO INGUIRIES" INTO THE REPORT OF THE DEATH OF NETAJI SUBHAS CHANDRA BOSE IN THE AIRCRASH ON 18TH AUG 1945 AT TAIHOKU AIRFIELD DURING THE AIR JOURNEY TO MANCHURIA, ONE OF THE COMMITTEE PRESIDED OVER MAJ. GEN. SHAH NAWAZ KHAN AND THE SECOND BY A ONE-MAN COMMITTEE OF INGUIRY HEADED BY SHRI G.D.KHOSLA, AS RETIRED JUDGE OF PUNJAB HIGH COURT. THE MAJORITY REPORT OF THE FIRST COMMITTEE AND SHRI KHOSLA HELD THE REPORT OF THE DEATH AS TRUE."

of the conclusion reached in the two reports and various important contradictions in the testimony of witnesses have been noticed. Some further contemporary official documentary records have also been available. In the lights of these doubts, and contradictions and those records, Govt. find it difficult to accept that the earlier conclusions are decisive.

At the sametime the Govt. feels that no useful purpose would be served by having any further inquiry. I hope that in the light of this statement, my hon, friend will withdraw his motion."

4. Implications of Morarji Desai's Statement :

The implications of Morarji Pesai's Statement are very clear an straight-forward: The issue for consideration is whether Netaji Subha Chandra Bose died in the aircrash at Taihoku on Aug 18, 1945 or not The two impriries concluded that Netaji actually died in that accident on the Laris of the esidences and testimonials they relied upon.

There is no necessity much to argue against the Shah Nawa: Committee report. The Govt. of Mrs. Indica Gandhi, ipso factodisapproved the Report of the Shah Nawaz Committee by instituting a fresh inquir; into the issue. Going ahead of Shah Nawaz Committee. Whosla Commission was asked to inquire not into 'death' of Netaji, but into his "disappearance". The riddle of disappearance had two aspects to inquiry. — (i) whether Netaji died. or (ii) whether under the cover of a cooked up news of his dealth he escaped to some pre-determined place.

Whosla Commission did not inquire much about the second issue, but straightway concluded that Netaji died in an air crash at. Taihoku en Aug 18, 1945. Khosla's conclusion is based on two basic asrguments, one, testimonies of the 5 Japanese witnesses and two, situational assumption in the shape of a political thesis.

The Janata Govt. could not accept "earlier conclusions and decisive" - because of - (i) 'reasonable doubts cast on the correctness of the conclusion reached", (ii) 'various contradictions in the testimony of the witnesses' and (iii) finding of the "some contemporary official documentary records".

Now, what remains about this correctness of the finding of all inquiry if its tesetimonies are found doubtful and contradictory? And if some new documents asre found countering the conclusion? Then what remains about the veracity of the findings of any Inquiry?

The statement of Morardii Desai clearly and categorically disapproved the findings of the two earlier inquires and thus, the whole issue of disappearance of Notaii remained in conclusive and indecision.

The issue involved in the two earlier inquiries was whether Netaji died in the alleged aircrash or not. The two inquiries concluded that the train died in the reported aircrash. But Janata Govt. did not accept such finding a conclusive or decisive. It means that for the language Govt, this issue remained open, i.e., its has yet to be finablised if Netaji died or not in the alleged aircrash.

The Govt. lawyer argued that the statement of Morarji Desai did not mean 'outright rejection' of the findings of the two earlier inquiries. Then what is the implication of Morarji Desai's stastement? To use another word, - it is certainly disapproval of the findings of the two inquiries for Re-Opening, Re-viewing and Re-Consideration of the issue - whether Netaji died in the alleged aircrash or not

When further Inquiry Commission was instituted, Mr. Khosla also faced a difficulty to conduct his inquiry because Shah Nawaz Committee's Report was not 'outright rejected'. Mr. Khosla wrote in his Report: "... although Report of the Shahd Nawaz Committee Had Been ORIGINALLY ACCEPTED BY THE GOVT., THE MATTER HAVING NOW BEING RE-OPENED, THE GOVT. DID NOT WISH TO PLEAD THAT THE FINDINGS CONTAINED IN THAT REPORT WERE CORRECT." [KHOSLA REPORT: P. 11, PARA 9-6].

In the present case the Govt. lawyer may argue that Morarji Desai's statement may not be tantamount to 'outright rejection' of the two earlier findings, but it amounts to certainly 're-opening' of the basic issue whether Netaji died in the elleged air crash on Aug 18, 1945 or not. There cannot be anykind of direct or indirect argument to

deny the fact that Janata Govt. Pe-opened the issue of disappearance of Netaji for final settlement.

If it is accepted that the Janata Govt. re-opened the issue of disappearance of Notaii. - then it means some steps have to be taken to finally settle the issue.

It is fact that Morarii Desai did not favour for any further inquir, of the kind of Shah Mawaz Committee or khosla Commission. I

But the Janata Govt. after Shri Morarji Desai's statement disapproved the findings of the two erarlier inquires in action also. In giving written answer to Shri F.R. Fausalram's question regarding bringing of the alleged ashes of Netaji from Tokyo to India as was requested by Top. General Fuziara, Shri Dahnik Lal Mandal, a Minister of State, said on 11 April 1979, in the Parliament:

"IN THE LIGHT OF THE REASONABLE DOUBTS CAST ON THE CORRECTNESS OF THE CONCLUSION REACHED IN TWO EARLIER REPORTS ON DEATH OF NETAJI SUBHAS CHANDRA BOSE, THE GOVT. FIND IT DIFFICULT TO ACCEPT THAT THE EARLIER CONCLUSION ARE DECISIVE. IT WILL, THEREFORE, NOT BE POSSIBLE FOR THE GOVT. TO TAKE ACTION AT PRESENT ON THE SUGGESTION OF GEN. FUZIARA."

Although Morarjibhai did not want further inquiry, but he was not oblivious of the fact that after his statement in the Parliament national responsibility devolved on the Govt. to find the answer, then, what really happened to Netaji? As such, he asked his political Secretary to discuss the matter with me. I have over an hour long talk with him in a room in the Central Hall of the Parliament, I suggested ofter preliminary discussion, that Govt, should set up a high power committee for an Investigative Inquiry for going through all documents and reports of all other inquires made by various Indian and foreign

But before the modus operendi of such inquiry could be chalked out after consultations with the Prime Minister, Janata Govt. had to go out of the office, and the whole issue regarding an Investigative Inquiry remained hanging.

edition of mobile. Netaji - Dead or Alive ?' - in a public function held it Bombiy. In his speech in this function, Shri Dead stressed the need for finally resolving the issue of disappearance of Netaji.

VI. SHRI SHANDRA SEKHAR GOVT. ACCEPTS THE MOVE FOR INVESTIGATIVE INQUIRY

inquiry to fin alise the question what really happened to Netaji Subhas Chandra Bose was revived. For this I met the then President of India, Shri R.Venkatraman more than once. He was fully convinced that it was our sacred national duty to fin ally settle the mystery about disappearance of Netaji. Accordingly he wrote as well as personally told the Prime Minister, Shri V.P.Singh, to TAKE UP' thematter of Investigative Inquiry about Netaji. I had also written to Shri V.P.Singh earlier and my letter to the President was also forwarded to the Prime Minister.

In reply to my first letter, Shri V.P.Singh wrote to me on June 27, 1990.

"... REGARDING INVESTIGATION INTO THE DOCUMENTS OF NETAJI SUBHAS CHANDRA
BOSE... I SHALL HAVE THE MATTER LOOKED INTO."

YOURS SINCERELY,

SD - V. P. SINGH

Rastrapati Bhavan, the Prime Minister wrote again in June 7.

DEAR PROF. GUHA: I HAVE RECEIVED YOUR LETTER OF MAY 17, 1990 REGARDING HIGH LEVEL INVESTIGATIONS INTO SECRET DOCUMENTS ON DISAPPEARANCE OF NETAJI. SUBHAS CHANDRA BOSE, BELIEVED TO BE AVAILABLE IN THE USSR, U.K. JAPAN AND THE USA.

I HAVE ASKED THE MINISTRY OF EXTERNAL AFFAIRS TO LOK INTO THIS. RECARDS,

YOURS SINCERELY,

SD/- V. P. SINGH

- After receiving this letter from the Prime Minister, I wrote to Shri I.K.Gujral, the Minister of External Affairs, who was an Ambassador to Moscow. Then I visited Delhi and had discussion with him for an hour. He assured all efforts to contact with USSR and other concerned foreign countries. But before he could take up the preliminary work of Investigation, Janata Govt. had to quit office.
- 4.5 Then came the Govt. of Shri Chandra Sekhar and I immediately took up the pending issue of Investigative Inquiry with him, who was my old friend. I also personally met with the President requesting him to talk to the new Prime Minister personally, as I thought he will more patriotically respond to the issue. I also wrote to the Deputy Prime Minister, Shri Devi Lal about the matter.
- 4.d On Januar; 29, 1991, I received a letter from the Joint Secretary of the President in which he informed me -

"THE PRESIDENT WISHES ME TO CONVEY TO HIS THANKS TO YOU FUR YOUR LETTER OF 21, AND LET YOU KNOW THAT HE HAD TAKEN UP THE SUBJECT WITH

THE PRIME MINISTER. THE PHIME MINISTER HAS INFORMED THE PRESIDENT THAT
THE ISSUE WILL BE LOOKED INTO.

WITH REGARDS.

YOURS SINCERELY.

SD - GOPAL KRISHNA GANDIH

4.6 Then came the rept, of Shui Chandin Sekhar through my friend Prof.

"I HAVE RECEIVED ... LETTER OF SHRI SAMAR GUHA REGARDING HIGH LEVEL INVESTIGATION INTO SECRET DOCUMENTS ON DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE. I AM HAVING THIS LOOKED INTO.

WITH REGARDS

YOURS SINCERELY

SD/- CHANDRA SEKHAR

4.7 Thereafter came the reply from Shri Devilal on March 13, 1991, which he wrote:

"DEAR PROF. GUHA.

YOUR LETTER.... RECEIVED BY ME ON 7TH MARCH, 1991 REGARDING HIGH LEVEL INVESTIGATION INTO SECRET DOCUMENTS ON DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE. I AM FORWARDING YOUR LETTER TO MINISTER OF EXTERNAL AFFAIRS FOR APPROPRIATE ACT.

WITH REGARDS,

YOURS SINCERELY,

SD/- DEVI LAL

1.8 THEN ON MARCH 29, 1991, CAME THE MOST VITAL INFORMATION FROM THE MINISTER OF EXTERNAL AFFAIRS, SHRI DIGVIJAY SINGH, THAT THE GOVT. HAD UNDERTAKEN THE TASK OF INSTITUTING AN INVESTIGATIVE INQUIRY ABOUT DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE AND HAVE ALREADY STARTED THE POROCESS OF INVESTIGATIONS. THIS VITAL LETTER FROM THE MINISTER OF

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EXTERNAL AFFAIRS IS AS FOLLOWS :

EMBLEM

NO. 489/Dm/91

DEPUTY MINISTER
FOR EXTERNAL AFFAIRS
INDIA

DEAR PROF. SASMARJEE,

KINDLY REFER TO YOUR LETTER OF 26 FEBRUARY, 1991 ADDRESSED TO SHRI
DEVI LAL CONCERNING HIGH LEVEL INVESTIGATION INTO SECRET DOCUMENTS ON
THE DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE.

- 2. I WOULD LIKE TO ASSURE YOU THAT THIS MINISTRY HAS ALREADY INITIATED FOLLOW-UP ACTION IN THIS REGARD. WE ARE AWAITING RESULTS TO OUR INQUIRIES.
- WE SHALL KEEP YOU INFORMED OF ANY FURTHER DEVELOPMENTS.

WITH KIND REGARDS,

PROF. SAMAR GUHA
EX. MEMBER OF PARLIAMENT
8/2 CENTRAL PARI
CALCUTTAZODO22

YOURS SINCERELY,

SD/-DIGVIJAYSINGH

- 4.8 Implications of the Communications from the President, Prime Ministers and the Minister of External Affairs of the Govt. of Shri
- (i) The then President of India Shri R. Venkatraman accepted it as a legal and national duty after the statement of Shri Morarji Desai to start a High Level Invesetigative Inquiory about Disappearance of Netaji Subhas Chandra Bose.
- (ii) The Govt. of Janata Dal of Shri V.P.Singh agreed to institute a
 High Level Inv estigative Inquiry about disappearance of Netaji.
- (iii) Successor Govt. of Shri V.P.Singh, the Govt. of Shri Chandra Sekhar not only morally and legally accepted the obligation of conducting an Investigative Inquiry, but but actually their Minister of External Affairs, started a high level investigation about

disappearance of Netaji.

- rushed to Delhi, next day, to meet the Minister of External Affairs, I and discuss probable modalities regarding the process and parameter of Investigative Inquiry. But, the day I reached Delhi, the Govt. of Shri Chandra Sekhar resigned.
- V. NEW HURDDLE AFTER FORMATION OF SHRI NARASIMHA RAO GOVT.
- 1.5 It is the moral, legal and constitutional obligation of a successor Govt. to follow the policy of an earlier Govt. unless either on the floor of the Parliament or by administrative decision that policy is changed. It was not only a patriotic but legal obligation of the Narasimha Rao Govt. to undertake follow-up action regarding Investigative Inquiry about disappearance of Netaji Subhas Chandra Bose that was started by the Chandra Sekhar Govt.

I had my political prempnition that the new Govt. will not spontaneously take up the matter of high level Investigative Inquiry about disappearance of Netaji.

Rao. It was simply acknowledged. Meanwhile the President, Shri R. Venkatraman came to Calcutta, when a deputation consisting of Dr. Shushil Kr. Mukherjee, Ex. Vice Chancellor of Calcutta University, Prof. Arabindo Bose, Ex. Vice Chancellor, Dr. Manindra Mohan Chakravarty, Ex. Vice Chancellor, Prof. Amiya Majumdar, Dr. D. Basu, Ex. President, Asiatic Society and myself met the President at Calcutta Raj Bhavan and gave him a resolution of the Citizen's Convention protesting against Posthumous Award of Bharat Ratna announced in Netaji's name and

urging for fresh Investigative Inquiry about Netaji.

and going back to Madras, on 28.8.92

DEAR PROF. GUHA.

AS I WROTE TO YOU, I HAD ALREADY TAKEN UP THE MATTER WITH THE PRIME MINISTER. I COULD NOT DO IT AGAIN IN THE LAST FEW DAYS AS YOU CAN EASILY IMAGINE THE STRESS OF RECEIVING FAREWELL CALLS.

I HOPE YOUR MISSION WILL BE ACHIEVED.

WITH KIND REGARDS,

YOURS SINCERELY,

SD/- R. VENKATRAMAN

The former President did not simply stop after hoping, - "your mission will be achieved" he wrote his last letter to Shri Narasimha Rao requesting him to take follow up action of the decision taken by the Minister of External Affairs of the Govt. of Shri Chandra Sekhar.

DEAR SHRI GUHA,

30. 11. 92

THANKS FOR YOUR LETTER DATED 21 NOV. I HAVE DONE ALL I CAN IN
THIS MATTER. NOW OTHERS HAVE TO FOLLOW IT UP. YOU HAVE MY BEST WISHES
IN THE PURSUIT YOU HAVE UNDERTAKEN.

WITH KIND REGARDS,

YOURS SINCERELY,

SD/- R. VENKATRAMAN.

- VI. NEITHER YES OR NO POLICY OF THE NEW GOVT. :
- way indicated the attitude of the new Govt. about any follow-up action

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reogarding Netaji Inquiry.

d.2 To create a moral pressure on the Govt. I requeseted Shri L.K.Advani, Leader of the Opposition in Lok Sabha, Shri Sikander Bakt, Leader of the Opposition in Rajya Sabha, Shri Chandra Sekhar, Shri V.P.Singh, Shri Jyoti Basu, Chief Minister of West Bengal, requesting all of them to write to the Prime Minister to undertake follow up action about the Investigative Inquiry started by the Govt. of Shri Chandra Sekhar. All of them informed me in writting that they have written to the Prime Minister, who acknowledged their letters, without making any comment thereabout.

- who visited Calcutta. On behalf of the Citizen's Committee, Dr. Triguna Sen, Dr. Sushil Mukherjee, Prof. Arabinda Bose, Prof. Amiya Majumder and myself met him to give him a memorandum requeseting him to withdraw posthumous Award of Bharat Ratna in the name of Netaji and take follow-up action about Netaji Inquiry started by the Govt. of Chandra Sekhar. The President wrote to me that he sent our memorandum to him and told him about the matter of Netaji Inquiry.
- 5.4 The Prime Minister remained unresponsive to the requeset made to him the present opposition leaders and even of two very distinguished personalities like the former President, Shri N.Sanjiva Reddy and Shri S.Nijalingappa, oldest among the President of the Congress of the post-independent days.
- Singh warmly replied to my letter writing me on March 6, 1993:
 - DIBAPPEARANCE OF NETAJI ABOUT THE DIBAPPEARANCE OF NETAJI BHOULD BE SOLVED. I CAN ASSURE YOU, WE SHALL DO EV ERYTHING POSSIBLE IN THIS

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REGARD, YOU HAVE MADE SUGGESTIONS, WHICH ARE VERY IMPORTANT AND I AM HAVING THE MATTER EXAMINED AS TO HOW BEST WE SHOULD PROCEED FURTHER."

This is a very witcome letter and indeed the Minister of External Affairs, thereafter, has written to some Ambassador and his secretary tried to contact the nbew Russiansd Govt. also.

6.6 In another letter to Dr. Triguna Sen, Shri Dinesh Singh wrote to him:

"... WE SHALL CARRY OUT ANY DIRECTIVE FROM THE PRESIDENT OF INDIA REGARDING INQUIRY INTO THE DISAPPEARANCE OF NETAJI SUBHAS CHANDRA BOSE. IN THE MEANTIME, WE SHALL SEE IF WE CAN GATHER SOME INFORMATION FROM THE KREMLIN FILES AS SUGGESTED BY YOU.

Thus, the whole issue of a regular and formal Investigative Inquiry about disappearance of Netaji Subhas Chandra Bose reached a state of suspended expectation, because of indecisive policy of the Govt.

VII. NETAJI'S DESTINATION - RUSSIA

6.2 Expect Col. Habibur Rahman, one of the dmost trusted lieutenant, who Netaji choose to circulate cooked up news of his aircrash death according to mhis escape plan, — every other witness appearing before Shah Nawaz Committee and Khosla Commission, came to ,know one way or other that after flight from Saigon on Aug 13, 1945, Netaji's destination was Russia. Even Mr. Khosla also admitted it in his Report. Netaji decided to reach Russia via Dairen in Manchuria and across the Sibuian border.

E.Bhaskaran, very trusted confidential secretary of of Netaji told

Khosla Commission that at about 3 a.m at night on Aug 17, 1945. Netaji wrote a secret letter to John Thivy, one of the Azad Minister, "I AM WRITING THIS TO YOU AS I AM ON THE EVE OF TAKING LONG JOURNEY BY AIR AND WHO KNOWS AN ACCIDENT MAY NOT OVERTAKE ME." This was the only hint that Netaji gave to one of his most faithful colleague about what he should expect in news broadcast.

6.2. COL. TADA'S REPORT: According to a secret file of Pandit Nehru, S.A.Ayer informed him after his confidential meeting with Col. Tada, the co-architect of Netaji's escape plan along with Gen. Isoda, came to. kow from him that Netaji's destination was Russia via Dairend and across the Manchurian border. [NETAJI - DEAD OR ALIVE 2]

6.3. SHAH NAWAZ KHAN'S REPORT: Shah Nawaz Khan told Khosla Commission, "Netaji felt that it mwould be good policy for him to take shelter in Russia." For this Ananda Mohan Sahay was directed by Netaji to contact Jacob Malik, the Russian Ambassador in Tokyo.

6.4. LT. GEN. ISODA'S DISCLOSURE: Lt. Gen. Isoda, the principal architect of Netaji's escape plan told Khosla Commission that Netaji's plan told Khosla Commission that Netaji's plan was to go to Russia.

6.5 The Vol.VI of the British Document, "Transfer of Poweer -1942-47", disclosed in 1975 that, "He (Bose) might, of course, in certain circumstances he welcomed in Russia."

6.6. SHYAMLAL JAIN'S EVIDENCE: Shyamlal Jain, a confidential steno of Asaf Ali, told Khosla Commission that Nehru received a secret note, which informed Nehru that 'Bose' reached Manchuria and from there he crossed into Russian territory

6.7. BRITISH INTELLIGENCE REPORT TO WAVELL GOVT: According to File No.10/Misc/INA- page 38, 39, the Govt. of Lord Wavell received the following reports from the British Intelligence forces:

BELIEVED THAT BOSE WAS ALIVE AND HIDING, ... HOWEVER, A REGRET REPORT SAYS, NEHRU RECEIVED A LETTER FROM BOISE SAYING THAT HE WAS IN RUSSIA AND HE WANTED TO ESCAPE TO INDIA. THIS IN FORMATION ALLEGES THAT GANDHIJI AND SARAT BOSE ASRE THOSE, WHO WERE AWARE OF THIS. IT IS PROBABLE THAT A LETTER ARRIVED ABOUT THE TIME GANDHIJI MADE HIS PUBLIC STATEMENT.

According to "another piece of intelligence, which connects bose with north west province ... is that the president of the frontier student congress ... was going there himself. In this letter the writer said that bose is in t.t - that was some code word."

6.8. ADMISSION BY RUSSIAN AMBASSADORS IN KABUL AND TEHARAN: "...
On 7th January the Russian paper Pravda denied in strong terms that
Bose was in Russia. Before thise Ghilzai Malang had been coupling with
a live Bose in Russia, and in December, a report said that Governmen t
of Afgan Province, Khost, has been informed by the Russian Ambassador
in Kabul that there are many Congress refugees in Moscow and Bose was
included tod their number. There is little reason for such person to
bring Bose into fabricated stories. Ast the same time the view that the
Russian Ambassador are disclosing or alleging that Bose is in Mo9scow
is supplied in a report received from Tehran. This stated that
Maradott, the Russian Vice Consul General disclosed in March that Bose
is in Russia."

6.9. INFORMATION BY DEBEN SEN: Deben Sen, an Ex. M.P and a former associate of Netaji claimed that on their way to Brussels to attend and international labour conference along with Jogleker, a founder member of the Communist Party, claimed that by chance they met Netaji at Marsellies airport, who was seen surrounded by Russian guasrds. Deben

Sen and Joglekar excitedly tried to approach Netaji, but he indicated them not to try to meet him.

Deben Sen told about this incident to Sarast Bose, Chapalakanta Bhattacharya and myself. But on advice from Sarat Bose, Shri Sen kept silent. However, some years later as he had serious heart attack he disclosed this in a press conference in Delhi.

6.10. Strangely, almost at the same time the British Communist leader, Gallachar said publicly that "Bose had gone to the Irish Free State on a secret mission."

Interestingly, when De Valera, who was a good frien d of Bose, said in sixties, when he visited Calcutta that "he expected Bose to see in India."

6.11. Shri Pulin Sen, publisher of Netaji's book, 'The Indian Struggle' told international press that according to his information that "Netaji was living in a Budhist monk in Russian Mongolia.

6.12 INFORMATION BY DR. RADHA KRISHNAN :

Dr. Radhakrishnan, when he was Indian Ambassador in Moscow tâme to know that Netaji was held in captivity in Stalin's sdRussia. This information he disclosed to his very close friend Dr. Saroj Das, a Professor of Philosophy of Calcutta University, who told it to Dr. Ramesh Chandra Majumder; Dr. Majumder informed Shri Morarji Desai about it. Dr. Majumdar and Morarji Desai - both of them told me ab out it.

6.13. A REVEALING DOCUMENT FROM U.S PRINCETON UNIVERSITY: I had the opportunity to visit the asrchives of U.S. Princeton University in 1990 and came to know about many documents of eminent U.S Journalist Louis Fischer, who was acting as a non-official liaison between Mahatma Gandhi and President Roosevelt. Dr. Bhairav Bhattacharya had sent me a sensational document in the form of a letter written to Louis Fischer

by the most trusted disciple of Mahatmaji', Khurshed Behn, grand daughter of Dadabhai Nawraji.

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On July 22, 1946, she wrote a hand written letter to Fischer, obviously as desired by Gandhiji and almost in Gandhiji's language, giving a graphic description of the political situation in India. In this letter, she hinted Fischer that the situation may take a new turn if Subhas Chandra Bose enters into India with the help of the Russian Army. She wrote in one place:

"AT HEART THE INDIAN ARMY DERITISH INDIAN ARMYO IS SYMPATHETIC WITH THE INDIAN NATIONAL ARMY (INA). IF BOSE COMES WITH THE HELP OF RUSSIA NEITHER GANDHIJI N OR CONGRESS WILL BE ABLE TO REASON WITH THE COUNTRY. ALSO (IF) RUSSIA FOR PROPAGANDA PURPOSES DECLARE ITSELF AN ASIATIC COUNTRY, THEN THEWRE IS NO HOPE OF AN EUROPEAN ALLIANCE ACCEPTABLE TO INDIA."

THIS LETTER SHOWED THAT GANDHIJI WAS CERTAIN THAT ATLEAST IN JULY 1946 NETAJI WAS ALIVE AND IN RUSSIA.

I have sent copies of this letter to the Presidents of India, Shri R. Venkatraman and Dr. S.D. Shasrma and all these successive Prime Ministers, Shri V.P. Singh, Shri Chandra Sekhar and Shri P.V. Nasrasimha Rao and other opposition leaders.

[ANNEXURE A! LETTER OF DR. BHAIRAV BHATTACHARYA AND KHURSHED BAHNS LETTER].

6.14. SECRE PAPERS ON NETAJI IN RUSSIA: A Russian researcher, Dr. F.S. Yurlova visited India in 1990, when she told 'Hiundustan Times, on 5.3.90:

MARCH 4 (HTC)

THE SOVIET GOVT. POSSESS CERTAIN SECRET | DOCUMENTS, WHICH MAY SHED

DR. E.S. YURLOVA OF THE INSTITUTE OF ORIENTAL STUDIES, MOSCOW, TOLD HINDUSTHAN TIMES HERE TODAY THAT TWO SOVIET SCHOLARS, WHO HAD BEEN WORKING ON INDIAN LEADER, HAD APPLIED TO THE GOVT. FOR PERMISSION TO EXAMINE THE DOCUMENTS. THE DOCUMENTS WERE CATEGORISED AS 'TOP SECRET' AND HAD NEVER BEEN ACCESSIBLE. THE SCHOLARS WERE, HOWEVER, HOPEFUL OF THE USSR NATIONAL ARCHIVES AGREEING TO MAKE AVAILABLE THE DOCUMENTS IN

6.15. ACCOUNT OF A GERMAN-JEW WHO CLAIMED TO MEET NETAJI IN A RUSSIAN CONCENTRATION CAMP: Shri S.Sarkar of South Calcutta ast present residing at 78, Apear Garden, Asansole, Burdwan, who know Russian, and who was working in the Machine Building Plant at Gorlovska near the city of Donisk in Russia. He came in contact of a German-Jew, B.A.Zerobin, who was working as the Deputy Chief of the Plant - Machinosttoitelinizevod. He gave an account to Mr. Sarkar, how he accidentally met Bose in a re-orientation camp in Siberia.

[ANNEXURES B AND C: LETTERS TO GORVACHEV AND LETTER TO YELTSIN]

6.16. LETTER TO GORVACHEV AND YELTSIN: I meet the then Russian leader, Brezhnev in 1974, when he visited Delhi. As the leader of the Socialist Party in Lok Sabha I sen t a letter to him inquiring about Netaji in Russia after fall of Japan. The letter was acknowledged, but not replied.

Later, after the beginning of the Glastnot era in Russia, I had sent a letter to Mr. Gorvachev, which included the account of Zerobin. My letter was separately forwarded to Gorvachev by two former Presidents of India, Shri N.Sanjiva Reddy and Shri Zail Siongh and a former Congress President, Shri S.Nijalingappa. But none of these letters were replied.

After dawn of democracy in present Russia, I have sent another

letter to the President Yeltsin, through Russian Consulate in Calcutta and another through Russian Embassy in Delhi. But this letter dstoo remained unreplied. [ANNEXURE A AND B].

VIII. DEMAND FOR INVESTIGATIVE INQUIRY TO FINALLY KNOW WHAT HAPPENED TO NETAJI SUBHAS CHANDRA BOSE

After the statement made by Shri Morarji Desai in the Parliament about the Report of the Shah Nawaz Committee and Khosla Commission, morally and legally the issue of disappearance of Netaji has been unmistakenly Re-opened for Review and re-consideration. It is the sacred duty of the Govt. to make a final and positive effort to know what really happened to Netaji Subhas Chandra Bose.

- (i) It should be remembered that even before the statement of Morarjibhai, the then President of India, Shri N.Sanjiva Reddy, on two occassions, once, while unveiling the portrait of Netaji on the Central Hall of the Paraliment and then again at the time of releasing the book "Netaji Dead or Alive ?" unreservedly expressed his disbelief in the story of Netaji's death.
- (ii) Similarly, the Speaker of Lok Sabha, Hon'ble K.S.Hegde, refused to entertain the request made to him to bring the so-called ashes of Netaji to India. When he visited Renkoji temple near Tokyo.
- (iii) After Morarjibhai's statement, the President of India, Shri R.Venkatraman was firmly convinced that an Investigative Inquiry should be started to finalize the issue of disappearance of Netaji. He personally talked to the two successive Prime Ministers, Shri V.P.Singh and Shri Chandra Sekhar and wrote to them also advising them to 'take up' the issue of an Investigative Inquiry about disappearance of

Netaji.

(iv) Shri Venkastraman told the present Prime Minister and wrote to him as well on two occassioins to take-up' the issue of Investigative Inquiry about Netaji.

(v) The Govt. of Chandra Sekhar informed Samar Guha that they had already 'started investigation about the issue of disappearance of Netaji

(vi) The present Minister of External Affairs, Shri Dinesh Singh agreed that "... EVERYTHING POSSIBLE" will , be done so that "THE RIDDLE ABOUT DISAPPEARANCE OF NETAJI SHOULD BE RESOLVED". And he has already started doing something.

(vii) All the leaders of the Opposition parties and some of the Chief Ministers wrote to the Prime Minister, requesting him to start an Investigative Inquiry to resolve the riddle about Netaji. The Prime Minister acknowledged every such letters and said `no' to n one.

(viii) West Bengal Assembly passed a unanimous resolution urging the Central Govt. for a fresh probe into Netaji-mystery that still remained unresolved.

What has been demanded is not any public inquiry of the type of Shah Nawaz Committee of Khosla Commission.

It appears that dthe External Ministery of the Chandra Sekhar Govt. and present Govt. have already started somekind of inv estigation but in a haphazard manner.

I therefore, appeal to your Lordship to issue an order asking the Central Govt. to start an Investigative Inquiry - not public inquiry of the kind of Shah Nawaz Committee or Khosla Commission - to give a formal and legal shape to the present haphazard move of the Govt. to inquire about the issue of disappearance of Netaji.

Inquiry Committee with theree retired judges of Supreme Court with the objective to investigate into :-

- (1) THE REPORT OF THE COMBINED SERVICE DETAILED IN TELLIGENCE CENTRE (CSDIC); AND OTHER BRITISH REPORTS.
 - (2) THE REPORT OF THE COUNTER INTELLIGENCE CORP (C. I. C.)
 - (3) THE REPORT OF INQUIRY MADE BY THE GOVT. OF WAVELL;
- (4) THE REPORT OF INQUIRY MADE BY MAC ARTHUR'S PACIFIC ARMY INTELLIGENCE TEAM'; AND OTHER MS REPORTS ABOUT NETAJI.
- (5) THE REPORT OF THE INQUIRY MADE BY THE MAYOR OF TAIPEI
- (6) THE REPORTS IN THE K.G. B FILES AND STALIN'S SECRET ARCHIVES ABOUT SUBHAS CHANDRA BOSE.
- (7) THE PAPERS AND DOCUMENTS IN THE ARCHIVES OF THE GOVT. OF JAPAN, PARTICULARLY ABOUT THE REPOORT OF ALLEGED DEATH OF NETAJI IN THE REPORTED AIRCRASH, PENSION PAPERS OF GEN. SHEDEI, CREMATION POERMIT ISSUED IN THE NAME OF NETAJI, & PHOTOGRAPHS OF ALLEGED DEAD BODY AND ALLEGED ASHES OF NETAJI, INA TREASURE, INQUIRY REPORT ABOUT THE ALLEGED AIRCRASH AT TATHOKU ON AUG 18, 1945, REPORTS OF AIRCRASH THAT TOOK PLACE IN THE TATHOKU AIRFIELD IN THE YEAR 1944 AND OTHER REPORTS ABOUT NETAJI SUBHAS CHANDRA BOSE.
- (8) THE REPORT ABOUT NETAJI'S PRESENCE WITH THE BISHOP OF DALAT'S CHURCH ON ASUGUST 18, 1945;
- (9) BRITISH REPORTS ABOUT NETAJI, PARTICULARLY IN CONNECTION WITH
 THE NEWS OF HIS DEATH IN THE ALLEGED AIRCRASH ON AUG 18, 1945. AND WHY
 THE BRITISH GOVT4. HAD SENT AN INTELLIGENCE TEAM TO TOKYO IN 1950 TO
 EXAMINE COL. NONEGAKI AND OTHERS:
 - (10) MY PAPERE AND DOCUMENTS THAT WERE MAINTAINED IN THE OM THE

18 18

AS MISSING OR DESTROYED [F. 29(156)/51-P. M;

- (11) MOUNTBATTEN'S FULL DIAASRY:
- (12) SCRUTINY OF THE PAPERS. DOCUMENTS, EVIDENCES, AND PROCEEDINGS
 RELATING TO SHAH NAVAZ COMMITTEE AND KHOSLA COMMISSION:
 - (13) AND EXAMINE ANY PERSONS IF REQUIRED; AND
- (14) ALL OTHER RELEVANT PAPERS AND DOCUMENTS AS AND WHEN DREQUIRED IN COURSE OF INVESTIGATION.
- (15) THE DOCUMENTARY BOOK 'NETAJI DEAD OR ALIVE ?' WHICH WAS EXAMINED BY THE LAW MINISTRY IN 1978.

IX. BHARAT RATNA AWARD - A DISHONOUR TO NETAJI :

Announcing of the Award of Bharat Ratna to Netaji is not a token of any honionour of Metaji. Except, one or two, non-descript persons, everybody in India and of the Netaji family, oppose the Bharat Ratna Award to Netaji. Fit answer to Govt's short sightedness or prejudicial perception about the magnitude of the personality on Netaji, has been that nobody came forward of Metaji's relations to accept the Award.

If bestowal of Bharat Ratna is no honour for Mahatma Gandhi, it is equally no honour for Netaji Subhas Chandra Bose. Our freedom struggle produced a galaxy of great national leaders. But historically and philosophically, Mahatmaji and Netaji stand at characterst4ically different level from other national leaders.

Mahatma, - a spontaneous adoration of the people for Mohandas

Karam Chand Gandhi is the highest honour bestowed by the people on

Gandhiji.

Similarly, - Netaji is the highest honour on behalf of the nation

that has been bestowed on Netaji.

Historically, Mahatma Gandhi and Netaji Subhas are the two men of destiny of our nation. Other great national leaders either followed Gandhji or Netaji. Gandhiji prepared the background of our freedom struggle through successive mass movements of the Non-cooperation Movement of 1921, Civil Disobedience Movement of 1930 and the Quit India Movement of 1942. But, it was Netaji, who by his last decisive blow of Azad Hind Revolution knocked out the foundation of British Raj in India. Lord Attlee, who piloted the Indian Independence Bill i8n the British House of Commons frankly admitted, when asked, - 'Why they left their Indian Empire after the victory in the world war, - he forthwith replied, "Because of Subhas Chandra Bose". Yes, the pivot of British Raj in India was the loyalty of the British Indian Army to the British Crown. This loyalty was demolished by the Azad Hind Revolution of Netaji.

Thus, historically, so far as Indian freedom struggle is concerned, Mahatma Gandhi and Netaji Subhas Chandra Bose are the two Men of Destiny of Indian Freedom. In estimation of the majesty and the magnditude of leadership in the struggle for Indian independence nobody else can be compared with them. All historian, not prejudiced by Nehruvian perspective, will hail them as two Supreme leader of the struggle for Indian freedom.

Philosophically, Gandhiji believed in non-violence, his means of struggle was peaceful satyagraha and his ultimate approach to attain independence was transference power through negotiated settlement with the British Raj. This why Gandhi became the highest emblem of the moral values, - the Mahatma of the Indian freedom struggle.

Netaji believed ion the Sakti cult of Revolution, technique and

of attaining freedom. Subhas is thus, the highest emblem of resolutionary idealism, - the Maha Kshatrya of India's struggle for liberation and that is why he has been hailed as the Netaji of the Indian people.

The Mahatma, - the effulgent4 emblem of Satyagraha and Netaji the radiand symbol of Revolution - are two peerless personalities in the history of our freedom struggle. To offer Bharat Ratna to Netaji, - is a sacreligious attempt to run down Netaji to the echelon of Ramchandran and Rajiv Gandhi.

No, Bharat Ratna is meant neither for Mahatma Gandhi nor for Netaji Subhas.

It is not enough to say the issue of Bharat Ratna award to Netaji is closed. Once closed, can be re-opened again. It should be withdrawn, lock, stock and barel.

After the legends of Azad Hind Revolution reached India every Indian leader was seen vying wil!, one other to pay his highest tribute to Netaji.

Gandhiji said Netaji's INA had 'cast spell' on the Indian people and Netaji had attained such a majesty of a mystic personastity that his 'name can only be conjured with.'

Inter a Congress President and the author of the History of Indian National Congress paid a long tribute in highest possible complimenmts to Netaji in which, inter alia, he wrote: "NETAJI... AWASRRIOR, A COMMANDER OF FORCES, A REBEL AND A REVOLUTIONARY... (ATTAINED) THE GLORY OF HIS ADVE TURE... UNPRECEDENTED IN CHARACTER, COLOSSAL IN

MAGNITUDE AND STUPENDERS IN ACHIEVEMENT."

VALOUR AND PROVES, THAT INDIA HAS STILL IN HIM THAT SENSE OF NATIONAL HONGUR FOR PRESERVATION AND PERPETUATION. . . SUBHAS MAY BE ALIVE OR DEAD IN B ODY, BUT HIS SPIRIT, HIS NAME WILL ENDURE LONG, YEA FOR EVER IN HISTORY. IN COMMON WITH THE N AMES OF ALEXANDER AND DARIUS, OF CAESAR AND HANNIBAL, OF CZENGHIS KHAN AND TEMUR LANE, OF HAROLD THE LAST OF BASRONS AND WILLIAM THE CONQUERER, OF GRONWELL AND GUY FAWAES. OF KAISER AND HITLER."

WHEN I VISITED MANILA IN 1959 TO SEE DR. JOSEPH LAUREL, FATHER OF PHILLIPINES, WHO WAS A COLLEAGUE OF NETAJI IN GREATER EAST ASIA MOVEMENT, HE TOLD ME: "WHEN YOU GO BACK TO YOUR COUNTRY, TELL YOUR COUNTRYNEN, - OF ALL THE GREATMEN I HAVE EVER MET, CHANDRA BOSE WAS THE GREATEST."

Dr. Joseph Laurel was known in the Geneva League of Nation days as one of the elder statesman of the world.

No, no adoration of any glory can be more than a befitting evaluation of Subhas Chandra Bose's personality than 'Netaji of the Indian people'. The Netaji, - the leader of the leaders, - the people of India should payd their tribute to Subhas Chandra Bose with no other, but with this incomparable adoration only.

Jin 4189/Dm/91

विदेश उप मंत्री भारत DEPUTY MINISTER FOR EXTERNAL AFFAIRS INDIA

March 26, 1991

D. - 12 2 P. 22 6 Sound 2 Jee

Kindly refer to your letter of 26th February, 1991 addressed to Shri Devi Lal concerning high level investigation into "secret documents" on the disappearance of Netaji Subhash Chandra Bose.

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- 2. I would like to assure you that this Ministry has already initiated follow-up action in this regard. We are awaiting results to our enquiries.
- 3. We shall keep you informed of any further developments.

With kind regards,

Yours sincerely,

(DIGVIJAY SINGH)

Prof. Samar Guha, Ex-Member of Parliament, 8/2, Central Park, CALCUTTA - 700032 PROF. SAMAR GUIA MEMBER OF TANDAMENT HOL SAMA



NEW DELHI 11
November 29, 1972

Dear Comrade Brezhnev.

I, on behalf of the Socialist Party in the Parliament, extend our warm greetings to you and your colleagues now in India and, through you, to the great people of Russia. Russian Revolution and its national reconstruction added great incentive to our aspiration to achieve socialist transformation of our country in an Indian way, under Indian condition and on the basis of democratic and cultural values that the people of our country cherished from the days of our ancient civilization. We welcome friendly relation with Russia as also with other countries for establishing fraternal relation of peace, progress, understanding and mutual respect of national independence of all countries.

On the occasion of your visit to our country, I want to make an earnest request to you to help the Indian people to resolve the mystery surrounding the fate of their beloved leader, Netaji Subhas Chandra Bose. A very large section of Indian people believe that Russia can throw light about what happened to their leader.

I am sure, it is known to you that the Indian people honour Netaji Subhas Chandra Bose as the greatest revolutionary of the days of their national liberation struggle.

It may be known to you that, to resolve the mystery about Netaji Bose, the Government of India have set up a second Inquiry Commission under a Justice of a High Court. The Commission, after about 3 years of its investigation works, is in the last stage of finalizing its report. However, the Commission suffered for want of documents from countries like Soviet Russia. U.S.A. and Britain connected with the episode of disappearance of Netaji Subhas Chandra Bose.

Netaji Subhash Chandra Bose after escaping from India in 1941, wanted to go to Russia to set up his head quarters in the Sovietland for conducting revolutionary struggle against the British imperialism. Although Russia at that time did not accept his plan yet allowed him to pass through Russia, with honour, to Italy.

Netaji Bose joined hands with the Axis power in Europe, as his strategy was to utilize the Britain's enemy's enemy for achieving India's independence. Although he collaborated with Nazi Germany and Fascist Italy for achieving his revolutionary objective, he never compromised his ideology of socialism with the totalitarian ideology of the fascist countries. It is on record that he expressed his deep resentment against the trecherous



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aggression on your motherland by Hitler. He made it absolutely clear to Hitler before he left for Japan that the Indian revolutionary army, that was formed under his leadership in Germany would not be compelled to fight, under any circumstances, in the eastern front against Soviet Russia but only against the British army in the western front. Many Indians of the Revolutionary Army for their refusal to fight against the Soviet Army, had to face extreme persecution at the hands of Nazi Germany. Even while Netaji Bose was in Germany, he always maintained a friendly attitude towards Russia and did not utter a single word in support of Nazi aggression against your Motherland. Coming to Japan after 90 days of most hazardous submarine journey, which no revolutionary in any time before dared to undertake in fulfilling a sacred mission of liberation of his country, Netaji Bose formed a hig Indian National Army and had set up a Provisional Government of free India. This Provisional Government, which was recognized by 11 nations of those days, had declared war against Britain and U.S.A., but it steadfastly maintained a policy of friendship with Russia and China. The Indian National Army, under the leadership of the legendary personality of Netaji Bose, fought the glorious battle of Indian liberation against the British imperialism in the Indian soil along the Indo-Burmese frontier. Netaji has been hailed in India as the greatest Hero of the Indian people and the chapter of the liberation strugglo of the Revolutionary Army of Netaji Bose is remembered as the proudest phase of the march of Indian freedom.

After the defeat of Germany in 1944, when it appeared to him that the defeat of Japan was also an inevitability, Netaji Bose tried to contact Russia to cross over to your country and resume India's freedom struggle from there after the fall of Japan. He prepared the plan to cross into Russia through Manchuria. The fact about this plan has been corroborated by the findings of the first Netaji Inquiry Commission from the records of the Provisional Free India Government.

Soon after the fail of Japan in the month of August, 1945, Netaji made an air dash to reach Manchuria in an effort to contact the Russian authority there and thereafter enter into the Soviet territory of Siberia. On 18th August, 1945, Japan made an unconvincing broadcast that Netaji Subhas Chandra Bose died in a plane crash at Taipei airport in Formosa (Taiwan).

The Indian people, for various unassailable reasons, did not believe in the story of reported death of their beloved leader. Recently, I visited Taipei in Formosa alongwith Netaji Inquiry Commission. After making thorough inquiry about the report



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of death of Netaji at Taipei, I came back to India with positive conviction that the whole story of Netaji Bose's death at Taipei was a part of a master deception plan to enable Netaji Bose to safely reach Manchuria and thereafter to go to Soviet Russia.

Many reports appeared in the Indian press that the great revolutionary leader of the Indian people, Netaji Bose, indeed reached Russia and he was a free man in Russia but sometime after, he was arrested by Stalin and kept in a prison in Siberia. Many years passed but the Indian people did not get any official information about Netaji Bose from the Government of Soviet Russia under Com. Stalin or the new regime set up in Russia after the death of the great Russian leader.

On behalf of the Indian people, I make an earnest appeal to you to send all documents that are in the hands of the Government of Russia about Netaji Bose and also what the Russian Government know about him. I hope and trust that, in the interest of friendship between the two peoples of Russia and India, as also Russia being a land of great revolution, you will kindly take personal interest in giving all informations to the Indian people regarding their great leader Netaji Subhas Chandra Bose and send all the documents to the Government of India connected therewith, for placing the same before the Netaji Inquiry Commission. The Indian people will remain ever grateful to you if you kindly consider the matter as very urgent as the second Netaji Inquiry Commission is going to finalise its findings very soon.

I again extend our warmest greatings to you and through you our best wishes to the people of your Motherland.

With warmest regards,

Yours comradely, Sd/- Samar Guha Leader of the Socialist Party in Parliament

Com. Leonid Brezhnev, '
General Secretary of the Soviet Communist Party,
Care Rashtrapati Bhawan, New Delhi

The letter was duely received by the staff of the Russian leader, but regrettably the expected reply never came. However, to bring some pressure on the Russian authority, the letter was given fair publicity by the Indian press.

PROF. SAMAR GUHA
FORMER
MEMBER OF PARLIAMENT
HOK SAMA



1104

8/2 CENTRAL PARK CALCUTTA 700032 INDIA

ABOUT SAMAR GUNA THE WRITER OF THE LETTER

Professor Samar Guha, the writer of this letter, is now 71.

He is an old revolutionary and an associate of Subhas Chandra Bose and Jayaprakash Narayan.

Prof. Guha had been in detention and prison for about 11 years during the days of British Rule in India. He had been also in Pakistan prison and many times in prisons in Free India in connection with people's movement.

Prof. Guha is a Chamistry Scholar, author of many books and former teacher of Chamistry of Jadavpur University, Calcutta.

Prof. Cube was 3-times elected to the Indian Parliament from Bengal. He was the leader of the Socialist Party in Parliament and 3-time Chairman of the Privilege Committee of the House of People.

- the highest Judicial body of the Indian Perliament.

Prof. Guha was a member of the highest committee of Forward Bloc (S), and Socialist Party and still continues to be in the highest body of the present Januara Party.



4191

8/2 CENTRAL PARK CALCUITA 700032 INDIA

November 5/1988

Comrade Mekhail Gorbachev
President of U S S R
General Secretary of the
CPSU Central Committee
Moscow
U. S. S. R.

Dear Comrade Gorbachev,

Kindly accept my hearty greetings for the innovation of the new revolutionary concepts of 'Glasnost' and 'Perestroika'. Your bold move will liberate the eclipsed image of the Russian Revolution and create a new hope of moving towards a new horizon of human liberty and progress.

I am a socialist but not a Communist. However, I always shared the views of my leader, Subhas Chandra Bose, the Russian Revolution should be looked upon as the most significant landmark in the history of evolution of human civilisation. Our anti-imperialist struggle for national liberation was immensely influenced by the heritage of 1917 Russian Revolution. But the Stalin-era of absolute riggur and repression in Russia raised many questions in the mind of Indian people about the Soviet System.

Your recent crusade for nuclear-arm-free world peace and your daring precepts of 'Glasnost' and 'Perestroika', to remodel the Stalinist polity and economic system of Soviet Russia have created a universal feeling of appreciation and hope all over the world. If your far-sighted move succeeds, it will open a new era of peace, amity and international understanding.

How the Indian people wish that the Nobel peace Prize be presented to you and you be hailed as the Man of Peace and Progress of the world!

, While sincerely congratulating you for your policy of 'Openness' I am placing before you an eatnest request for opening the mystery about the fate of the greatest revolutionary hero of Indian freedom. Subhas Changra Bose, whose image is as captivating for the Indian people as that of Mahatma Candhi.

PROF. SHEAR GUHA
FORMER PAGLIAMENT
(LOK SABIL)



-2-

N

After fall of Japan on 15th August, 1945, Tokyo Radio reported on 23rd August 1945 that Subhas Chandra Bose, the Head of the State of the Government of Free India, died in a plane crash at Taihoku (Taipei) in Formosa (Taiwan) on 18th August 1945. The report was considered by the British Government and the Indian people as a palpably fake news intended to cover Subhas Chandra Bose's escape to Russia via Manchuria and across the territory of Siberia.

The reasons for the belief that Bose escaped to Russia are following:

- 1. Subhas Chandra Bose, twice elected President of the Indian National Congress, always considered Soviet Russia as the greatest ally of the struggle for Indian freedαn.
- 2. During the War days Bose tried to establish contact with Stalin through British Communist Party.
- 3. While escaping from British prison and British India, in January 1941, Bose intended to go to Russia while reaching Kabul but without getting necessary response from Stalin, he had to move to Berlin across the Russian territory in a tactical bid to use Axis Power, the enemy of the British Imperialism, for securing Indian freedom.
- 4. Although Bose had his collaboration with the Axis Power to wage revolutionary war against british Imperialism for the national liberation of India, he nover uttered a word against Russia during the War days nor acted in anyway against Russian interest. When Hitler treacherously attacked Russia, Bose, who was then in Berlin, did not fear to take immense risk to denouncing it as an 'imperialist war against Russia', in his letter to Nazi Foreign Minister, Ribbentrop. Bose did not allow his revolutionary army, organised in Germany, to fight against the Russians.
- 5. After German aggression of Russia. Subhas Bose made an unprecedented 3-month submarine dash from Germany to Singapore to join hands with Japan, because Japan was then at war with the British but it had its friendly tie with Soviet Russia.

FORMER
MEMBER OF PARLIAMENT
(LOK SABHA)



- 6. While waging revolutionary war of Indian Liberation against the British across the eastern border of India, Bose always tried to maintain contact with the Russian leaders through Jacob Malik, the then Russian Ambassador in Tokyo.
- 7. Major General Isoda and Col. Tada of the Headquarter of Field Marshall Tarauchi at Silgon, who were entrusted by Japan for ensuring safe escape of Subhas Lose from being arrested by the British Army, admitted before the 'Commission of Inquery about Disappearance of Subhas Chandra Bose' that Japan agreed to Bose's request to airlift him to Manchuria so that he could take political asylum in Russia by crossing into the Siberian territory. Accordingly, Bose was escorted to Manchuria by Gen. Shedie of the Jap Army.
- 8. Two months after the report of Bose's death in an aircrash in Taipei, the Home Minister of the British Government in India informed the British Prime Minister Mr. Attllee in a secret report (1945):
 - "Subhas Bose might, of course in certain circumstances, be welcomed in Russia. The easiest course would be to leave him where he is and not to ask for his release."
- 9. During the early part of 1946, a secret report sent to the British Viceroy in India by its intelligence stated:
 - "There is a secret report which says, Nehru received a letter from Bose saying that he was in Russia and wanted to escape to India."
- 10. In another secret report to the British Government by its intelligence said:
 - "Ghilazi Malang had been coupling with live Bose in Russia, and in December (1945) a report said the Governor of Afgan province 'Khost' has been informed by the Russian Ambassador in Kabul that there are many Congress refugees in Moscow and Bose was included in their number. There is little reason for such persons to bring Bose into fabricated stories."
 - "At the same time views that Russian officers are disclosing or alleging that Eose is in Moscow is supplied in a report received from Teharan. This stated that Maradoff, the Russian Vice-Consul General, disclosed in March (1946) that Bose is in Russia."
- 11. Another intelligence report received in Delhi on December 26. 1945 said:

PORMER GUHA
FORMER
MEMBER OF PARLIAMENT
(LOK SABBA)



-4-

"Subhas Chandra Bose arrived at Dairen (in Hanchuria) at 1.30 afternoon on August 23, 1945. Bose got into a jeep and proceeded toward Russian territory. After 3 hours the jeep returned and informed pilot of the plane who flew back to Tokyo." (On this day i.e. after Bose's escape to Russia Tokyo Radio reported Bose's death in an air crash at Talpel).

- 12. The Inter-Pole, an welknown world secret service published a report in India that Subhas Bose went to Russia after fall of Japan.
- 13. Many other reports appeared in the Indian press about Subhas Bose's presence in Russia. These reports said that Bose was first a free man in Russia but later to was sent to a Siberian Concentration Camp.
- 14. Dr. S.Radhakrishman, who was the second Indian Ambassador in Moscow, confided his close triends Dr. S.Das, then head of Philosophy Deptt. in Calcutta University and Dr. E.C.Majumdar, the most distinguished Indian historian of his time that he came to know that Bose was hapt captive in Stalin's Russia.

about Subhas Bose's presence in Aussia in 1961, from an Indian engineer, A.Sarkar, of Calcutte. Sarkar was sent to Russia 3 times for training in connection with the Neavy Engineering Corporation for manufacturing heavy machinery, set up in collaboration with Russia. Sarkar learnt: Russian well.

Sarkar worked in Machine Building Plant at Gorlovska near the city Doniesk. He came in contact of a German-Jew who was the Deputy Chief of the Plant (Machinosttroitelinizavod). His name was B.A.Zerobin, who was earlier an war machine designer in Nazi Germany.

Zerobin told Sarkar that he was captured in Berlin after fall of Germany and was sent to a Re-orientation Camp somewhere in Siberia. He was first taken to Siberia by train and thereafter flown to an undisclosed place and then taken to the Orientation Camp. Zerobin surmised that the Camp was somewhere near Siberian-Mongolian boarder.

political classer for only top foreign politicians and ergineers, he met Subhas Bose on two occasions.

PROF. SAMAR GUHA FORFER MEMBER OF PARLIAMENT

HOK SABILAT



-5-

Zerobin could recognise Bose as he was him earlier in Berlin during the War Cays. Bose's Headquarter was then in Berlin. Because of the handsome appearance and rare cut-out of the feature of his distinguished personality Zerobin could immediately recognise Bose.

According to Zerobin. Bose was brought to the Camp in a car accompanied by 2 Mongolians, one as his interpretor. Zerobin believed that both the Mongolians were KGB men but it appeared to him that Bose was well looked after.

Zerobin told Bose, "Sir, I met you in Berlin." Bose replied.
'Quite likely'.

Bose asked Zerobin: "What are you doing here?"

Zerobin : "I don't know what for".

Zerobin again asked Bose, "What is your programme? Are you going back to India?"

Bose : "I expect it to Lo soon."

While Bose and Zerobin were talking in German, the Mongolian interpretor, intervened saying, 'Not allowed'.

Zerobin never met Bose thereafter in the Camp.

Zerobin while disclosing his meeting with Subhas Bose warned Sarkar that he should not to disclose it while in Russia as it would endanger both.

Sarkar told about the matter to the Second Secretary of the Indian Embassy in Moscow, who also warned him of the dire consequence if he disclosed it to any body.

Sarkar recently told me about Bose's presence in Russia till 1961 in a particular circumstances as he is now out of Government service and believes that Zerobin is now dead.

Comrade Gorbaclev! You have taken many bold steps in disclosing many suppressed facts of horror and repression of the Stalin days. You have done great justice to history by rehabilitating Trotsky and Bhukharin, and restoring honour to the great scientist, Prof. Sakharov. Inspired by your great liberal policy of 'Glasnost', I would make an appeal - an appeal from the depth of my soul to you - on behalf of the patriotic people of India to reveal all facts about the universally adored hero of the Indian people, Subhas Chandra Bose.

PRUF. SAHAR GUHA FORMER OF PARLIAMENT d OK SABILY



Stalin might have done injustice to the legendary hero of Indian reedom, but why would you not reveal it now? Bose was a Promethean hero of Indian Revolution who staked everything for the liberation of his motherland and who was always very friendly with Russia. Why should you not let the India people know what happened to their entrepid nationalrem Wein India believe you to be a man of great vision and human feeling. If you let the Indian people know all about the presence of Subhas Bose in Russia, you will win the hearts of millions of millions of the people of India.

When Comrade Brezhnev visited India in November, 1973, I met nim in the President's House as the leader of the Socialist Party in the Indian Parliament and gave him a letter seeking informations about Subhas Bose's presence in Rusqia. The letter was acknowledged but not replied. (A copy of the letter is enclosed).

Considering the poignancy of the issue involved about our greatest national hero. I hope you will excuse me for addressing this long letter to you.

I am eagerly expecting your reply before your visit to India. With warmest regards.

Yours sincerely,

Samurfiha

(SAMAR GUHA)

Former leader of the Socialist Party in Parliament

Encl: As stated.

Prof. Samar Guha, EX. MEMBER OF PARLIAMENT (LOK SABIIA) (3-terms)

Former Chairman,
Privilege Committee, Lok Sabha,
Associate of Subhas Ch. Bose,
Revolutionary Freedom Fighter,
Former Prof., Jadavpur University



8/2, CENTRAL PARK, CALCUTTA - 700 032, INDIA

PHONE: 72-1600

November 19, 1992.

An Appeal To Boris Yeltsin

Mr. Boris Yeltsin Hon'ble President Federation of Russia Moscow, Russia

Honourable Sir,

After the great non-violent democratic revolution in the former Soviet Union under your leadership, Indian people are watching the democratic developments in the Russian Federation and its sister States with deep interest. What has happened in the former USSR is a seismic event that has shaken the existing co-relations of the present politics of the modern world, opening a new vista of peace, amity and human rights before the whole humanity.

Indian relation with Russia had always been friendly, cordial and mutually trustworthy. Indian freedom movement received sustained support from Russia. Our greatest national revolutionary, Subhas Chandra Bose, who was twice elected as the President of the Indian National Congress, showed consistent interest in cultivating Russian friendship for the cause of Indian freedom.

After his historic escape from the British India in January 1941, he intended to reach Moscow via Kabul. But, because of the policy of Stalin at that time, Subhas Chandra Bose was compelled by the prevailing circumstances to divert his destination to Germany via Moscow to seek help of the "enemy's enemy" for ousting British Imperialism from India. He had to seek help of the Axis Power, though he was opposed to their ideology, for exploiting international enmity between Britain and Germany and also because of the fact that due to the Russo-German Pact, existing at that time, Germany was looked upon by him as an ally of Russia.

Alter the treacherous attack of Russia by Nazi Army in June 1941, the dream of Subhas Chandra Bose to achieve Indian independence with the collaborative help of Russia and Germany was shattered. Sitting at the very den of Hitler, Subhas Bose, the intrepid Indian Revolutionary, dared to write to Hitler's Foreign Minister Mr. Ribbentrop that "the Indian people

will view 'German attack' of Russia as an 'imperialist aggression.' Though Subhas Chandra Bose formed as Indian Legion in Germany, he never attered a word in support of Nazi aggression of Russia, nor did he allow the Indian Legion to be used in anyway against the interest of Russia.

Being frustrated in Germany, Subhas Chandra Bose undertook an unthinkable hazard of 90 days Submarine journey from Kiel to Singapore. He created a saga of Revolutionary War of Indian Liberation against British Imperialism, the fiery impact of which ultimately compelled the British power to quit its Indian Empire after the War.

While waging 'War of Independence' against British Imperialism with the help of Japan, Subhas Chandra Bose never uttered a single word, nor did he do anything adversely against Russia or China. Rather, he always tried to maintain an attitude of friendship towards these two countries. His joining hands with Germany and Japan was motivated solely for winning Indian national independence.

When it became clear after fall of Germany that collapse of Japan was a matter of days, Subhas Chandra Bose contacted Mr. Jackob Malik, the then Russian Ambassador in Tokyo, for seeking asylum in Russia. After surrender of Japan on August 15, 1945, Tokyo Radio made a dubious broadcast on 23rd August circulating a story that Subhas Chandra Bose, the supreme leader of the Provisional Govt, of Free India, died in an aircrash at Taihoku (Taipei). But the report of Bose's death was not confirmed officially either by Japan or the U.K. nor also by the USA. Genl. Mac Arthur of the US Pacific Army and Adml. Mountbatten of the S.E.Asia Allied Command immediately ordered two separate inquiries to probe into the story of Subhas Chandra Bose's death. But their inquiries couldn't find any positive evidence to confirm Bose's death.

Subhas Chandra Bose made his flight from Saigon on Aug 17, 1945. His destination was Russia, via Dairen. According to the Mac Arthur's Inquiry Japan made a false broadcast on Aug 23, 1945 to comouflage Subhas Chandra Bose's escape into Russian Siberia via Dairen.

During the days of 1945-46 British Intelligence made many reports to the Viceroy of British India, that Subhas Chandra Bose under the cover of the story of his aircrash death had actually reached Russia. This report was corroborated by the Russian Ambassador in Kabul, and the Russian Consul General at Tehean in 1946. It was told by them that Bose was living in Russia with an assumed Mongolian name of 'Ghilzai Malang'.

The Govt, of India instituted two inquiries to verify if the report of Bose's aircrash death was true. But these two inquiries failed to confirm Bose's death. All the high officers of Subhas Chandra Bose's Revolutionary Army (INA) and the Ministers of his Provisional Govt, of Free India and all the high ranking Jap Generals and Jap diplomats, who appeared before the two Indian inquiries, categorically stated that Bose's plan after fall of Japan was to go to Russia.

Dr. S.Radhakrishnan, who was the second Indian Ambassador to Moscow told his personal Iriend, Dr. Saroj Das of the University of Calcutta that he got the information that Subhas Chandra Bose was held in captivity in Soviet Russia by Stalin,

In 1975 the British Govt, published secret documents concerning 'Transfer of Power' to India. In it a specially important note, after analysing the pros and cons of various measures

how to punish Subhas Chandra Bose if he was attested, recommended to the British Govt. in late 1948 that a

"...In many ways the easiest course would be to leave him where he is and not to ask for his release. He might, of Course, in certain circumstances be welcomed by the Russians. This course would ruise fewest immediate political difficulties."

This note provides an authentic information that Bose took asylum in Russia after fall of Japan.

Another fact revealed is more starling. An Indian Engineer of Calcutta, Mr. A.Sarkar, who was deputed by the Govt, of India to have training in machine building plant in Russia, was three times in Russia and knew Russian well. Mr. Sarkar worked in the Machine Building Plant at Gorlovska near the city of Doniesk. He came in contact of a German – Jew there, who was the Deputy Chief of the Plant - Machinostroitelinizevod. His name was B.A.Zerobin, who was earlier an war machine designer in Nazi Germany. He claimed that he met the Indian Revolutionary Subhas Chandra Bose several times in Berlin.

Zerobin after being captured in Berlin, was taken to Siberia in a train to an unknown place, from where he was flown to a Re-orientation Camp somewhere in Siberia. In that Camp one day he suddenly found Subhas Chandra Bose coming out of a Car, flanked by two Mongolian gnards. Seeing Bose, Zerobin excitedly rushed towards him and said: 'Sir, I have met you in Berlin'. Bose replied in his characteristic style: 'Quite likely'. Bose then asked Zerobin: 'What are you doing here?' Replied Zerobin: 'I don't know what for,' Zerobin again asked Bose: 'What is your programme, Sir? Are you going back to India'? Bose: 'I expect it to be soon.'

While Bose and Zerobin were talking in German, (Bose knew German well) the Mongolian guards intervened; 'Not allowed'.

Thereafter, Zerobin had no opportunity to meet Bose in the Siberian Re-orientation Camp.

Zerobin warned Mr. A.K.Sarkar that if he disclosed the report of his meeting with Subhas Chandra Bose in the Re-orientation Camp in Siberia, the lives of both Zerobin and Sarkar will be seriously endangered in Russia. After retiring from the Govt, job, Shri Sarkar took courage to disclose the report about Bose and that too many years later.

Prof. Samar Guha, a former member of the Indian Parliament and three-term Chairman of its Privilege Committee, — the highest Judicial body of the Indian Parliament, wrote a long letter to Mr. Gorbackev requesting him to disclose all facts about Netaji Subhas Chandra Bose's taking asylum in Russia after fall of Japan. This letter was separately forwarded to Mr. Gorbachev by the two former Presidents of India, Mr. N.Sanjiva Reddy and Mr. Gyani Zail Singh. A third letter was forwarded by the oldest President of Indian National Congress, Mr. S.Nijalingappa. Unfortunately, Mr. Gorbachev remained unresponsive.

A very important letter has been found out in 1991 in the archives of the US Princeton University, which confirmed the British report that Mahatma Gandhi knew that Subhas Chandra Bose was in Russia in 1946. This letter was written by Khurshed Behn, a very trusted disciple of Mahatma Gandhi, to the US journalist Louis Fischer, who worked as go-between Gandhi

MIN and the US President. This letter was written on 22nd July, 1946. In it was written by Khurshed At heart the Indian Army is sympathetic with the Indian National Army fof Subhax Hose), if Bose comes with the help of Russia, neither Gandhiji, nor the Congress will be able to reason with the country Dear President Yeltsin! We hope that you know how the Indian people hold Subhas Chandra Bose in their highest esteem as the greatest revolutionary of their national liberation. It was the saga of heroic exploits of the War of Indian Independence waged by Bose against the British Power that created such a tremendous anti-British upsurge in India after the Great

War that it ultimately compelled the Britishers to withdraw from their Indian Empire. Mahatma Gandhi is bailed in India as the 'Father of the Nation' and in the same way Subhas Chandra Bose is acclaimed as "The Netaji". - the supreme liberator of the Indian people. It is not yet known what really happened to Subhas Chandra Bose in Stalin's Russia. Many Indian Communist and Nationalist Revolutionaries were killed by Stalin, How Stalin

treated Subhas Chandra Bose, the whole episode remained imrevealed,

Dear Mr. Yeltsin! You have carried international admiration as the Liberator of the Russia people and a new harbinger of the message of peace, freedom and democracy for the humanity of our age. We beseech you to let the Indian people know what really happened to their beloved leader, their National Liberator, Subhas Chandra Bose, who sought asylum in Stalin's Russia after fall of Japan. Your Govt. is now disclosing all secret KGB files, Stalin's confidential archives and other hitherto unknown secret reports of Stalin's days. You have gracefully rehabilitated many eminent Russians and have given promise to the US people to find out if any US soldiers are left anywhere in the Russian territory.

India and Russia are two great friendly countries. The people of these two countries had never any conflict between them. If you reveal all facts about Subhas Chandra Bose, the greatest hero of Indian liberation, who sought asylum in Stalin's Russia, you will win the hearts of the millions of the people of our country. The Indian people are pinning for years to know what ultimately happened to their beloved leader, Subhas Chandra Bose, the Promethean Hero of their nation, after he took political asylum in Stalin's Russia.

We beseech you again President Yeltsin to let the Indian people know all facts about Subhas Chandra Bose after he sought political asylum in Stalin's Soviet Russia!

May God bless you, bless the Russian people I May God be in your heart to impel you to reveal all truths about the most beloved leader of the Indian people, Subhas Chandra Bose, since he reached Russia after fall of Japan.

With warmest greetings and regards,

Behn, inter alia:

Yours sincerely,

. .. SAMAR GUHA

22/7/46 Dear Tischer. - Jean Tischer.

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Gardhiji's lette as heard by you But please Soit think that he is not will as. I have been with his since my whose fin prim the Jul the Coolington Brogram before the country while as our looked by the wiking - Countil when they should on anditation method Since the relien of his colleagues ofth howling Come to has gon _well then be they we not _ Gardlije is ersentille a men Sockin when the time_

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and States Copyright Law (Fide 17, U. S. Code) governs the making of phosecopies of copy- righted in secretal. The person making use of this phosecopy is listmy infringement of the law. Manuscripts copied from Princeton University Libraries holdings are not to be re-produced or published in whole or in part without the emis of the Library. . up to fight the longues so ill Now to deal att then now. They are going underground til beeth time the Allies (scholing Fasis) Lave a sury with Swart fami Indie is not satisfied with the results Ithe Constituent Aroundly, showly -go our entiry abolily tell enmie Jellie The Inher - army (not the Indien Trational Army) is no longer ofthe same timper as it as in the first will one Beside the disapetion aways the India Span the make file, a mobilionery group has buy working among t them they are you ferrian. The how her many cases of some street and the tropical street of an individual street.

States Copyright Law (Fille 1), U. S. Code i governs the stating of phasocopies of copy-righted material. The person making use of this phasocopy is hable afringement of the law. Manuscripts copied from Princeton University Libraries holdings are not to be reproduced or published in whole or in part without the an of the Library.

during the last war Ath in India rabund. There have been men disections it regular army thing suges in the y. 4. 7. Pewing. of the beginning of the wer ____ It hart the Endie any is syapething with the Indian national Aring Is Bose comes with the hely of Hama northe Gandhiji mor tt Congress will be able to were will the country, the Thomas for peropagale purposes obelares itself an Asiati counting thin thulis no loge of any Known alliance acceptable to Inde. Fundam for India unch the agis of Svoriet Set it now into will lingland I play fair by the people - of India on he obelied by so for we as the every of trake title

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IN THE HIGH COURT AT CALCUITA

Constitutional Writ Jurisdiction

Appellate Side.

IN THE MATTER OF:

BIJAN HOSH Patitioner

-Versus-

UNION OF THOIR & CRA. .. Respondents.

SUPPLEM . NI ARY AFFIDAVIT

of SAMAR GUHY, Added Respondent No. 6 affirmed on 24th. November, 1993.

Samar Guha, In person. 8/2, Central Fark, Calcutta- 700 032. S.K.KUNDU
CENTRAL GOVT. ADVOCATE

Government of India
Ministry of Law & Justice
Department of Legal Affairs
Branch Secretariat, Calcutta.
4, K.S. Roy Road, Calcutta.
4, K.S. Roy Road, Calcutta.
Dated 2nd December 1993

To Shri V.P. Bhatia,

To Shri V.P.Bhatia, Under Secretary (Pub & Vig.), Ministry of Home Affairs, North Block, New Delhi 110001

Dear sir,

CO No.6720(w)/93 Bijan Ghosh -Vs-UOI & Ors.

Kindly find enclosed herewith the draft/reply which has been settled by Shri R. N. Das, Senior Advocate for your taking necessary action thereon. Please note that the matter is to appear on 6th December, 1993 and as such steps should be taken immediately to affirm the Affidavit-in-reply and copies may be made available to us for serving on the other side as well as for our counsel appearing in this matter.

Encl: Draft Affidavit-inreply. Yours faithfully,

(s K Kundu) 62/12/93

Leed on 6.12.93 Have it faired with our dealt commends.

so Xula

(ht)

Settled, subject to corrections.
423 RuDus
il1193

AFFIDAVIT IN OPPOSITION

SHRI BIJAN GHOSH.

Spident in Reply to the Affidavit-in-Opposition to the Writ petition for and on of Respondent No. To the Milarit of Sri N Secretary to the Government of Indile read with Arolle ... aged about ... years, by occupation service New Delhi in the Ministry of Home Albana, rendery at working for gain at who hereby solemnly affirm and say as follows:-

lgovernment of Endou and duly authorised and competent to affirm this affidavit for and on behalf of the respondent No. 2.. herein.

Affidant in Opposition affirmed on 18th November 1993 (and I have read a copy of the writ petition and understood the purport and contents thereof.

- 3. Save and except the statements expressly admitted hereinafter and save and except what appears from the record all allegations contrary thereto and/or inconsistent therewith shall be deemed to have deem denied and disputed by me.
- Fully relying on the above, I now beg to deal with the statements or allegations contained in the writ petition.
- With reference to paragraph 4 of the said petition 5. save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith qxx are denied and disputed. I state that as already averred in

-:2:-

the affidavit-in-opposition in response to the writ petition and supplementary application etc. filed by the petitioner, the contentions now made out in para 4 are without any merit and are denied.

Said davit!

Writ petition, save as aforesaid and save what appears from the records, all it allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are uncalled for as the affidavit has been affirmed properly and in accordance with law.

Afilanit

with reference to paragraph & 5(b) to (g) of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are emphatically denied. The order of the Hon'ble Court to produce the relevant records has been considered very carefully. The reasons for withholding permission to produce the records are stated clearly in the affidavit of the Secretary, Ministry of Home Affairs.

affidavit

With reference to paragraph 5(h & i) of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the claim of privilege is in accordance with the provisions of Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India, and has been made after due application of mind.

_:3:-

Afridavit

9. With reference to paragraph 5(j) of the said writpetition, save as aforesaid and save what appears from the
records, all allegations contrary thereto and/or inconsistent
therewith are denied and disputed. I state that the contentions
of the petitioner are emphatically denied in view of the position
already stated in reply to para 5(a) to (g).

affidewit

10. With reference to paragraph 6 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petition are unfounded and misconceived. The claim of privilege has been made with due regard to the legal and constitutional provisions. Further, the claim of privilege has been made only after due application of mind and with reference to the contents of the relevant records.

affidavit

petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are emphatically denied.

311

12. With reference to paragraph 9 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or and/or inconsistent therewith are denied and disputed. I state that the position taken by the petitioner is wrong and merits outright rejection.

-:4:-

writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the submission of the partitioner in para 11 is totally out of place as in para 1 of the said affidavit, a reference has been made to the order of the Hon'ble Court for the production of all the records pertaining to the declaration of the award of Bharat Ratna Posthumously to Netaji Subhas Chandra Bose.

With reference to paragraph 12 of the said whitever writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contention of the petition is frivolous.

With reference to paragraph 13 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are misconceived.

With reference to paragraph 14 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the allegations of the petitioner are baseless and incompetent.

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17. With reference to paragraphs 15 & 16 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner with reference to para 5 of the affidavit are his own presumptions and are not based on factual knowledge about the relevant records, notes and minutes by officers are Ministers on files, and papers submitted to Cabinet Committee on Political Affairs and its decision thereon.

- writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are not based on factual knowledge of the relevant records and their contents, and are denied.
- writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petaltioner are entirely misconceived.
- With reference to paragraph 19 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the findings of the Netaji Inquiry Committee (1956) and of the

Levelong Some ment Printing of Minetry of Home Affairs, -:6:-

Khosla Commission as also the statement of the former Prime
Minister, Shri Morarji Desai made in Parliament in the year
1978, were fully known to the Government while declaring the
award of Bharat Ratna 'Posthumously' to Netaji Subhas Chandra
Bose on 23rd January, 1992. The matter was considered by the
Government later in February, 1991 and it was decided that since
two inquiries had already been held on the disappearance of
Mataji, and Government had already accepted that Netaji died in
an aircrash on 18th August, 1945 at Taihoku, no useful purpose
would be served by holding another inquiry. In view of this
position the contentions of the Laffitioner are misconceived,
unfounded and without any basis. It is further denied that
the claim of privilege is a myth.

21. With reference to km paragraph 20 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that it is true that some Members of Parliament had raised the matter of conferring the award of Bharat Ratna on Netaji Subhas Chandra Bose. However, the process of giving an award xx is not as simple as that. All related considerations have to be taken into account by Government. The process of decision taking at the highest level has also to be gone through-As regards the claim of privilege with reference to the records relating to the declaration of Bharat Ratna 'Posthumously' to Netaji Subhas Chandra Bose, the position has already been stated in response to the petitioner's contentions in earlier paragraphs.

Writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the matter of production of relevant records has been considered very carefully before claiming privilege under Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India.

writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are frivolous and are denied.

writ petition, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the petitioner are denied inasmuch as the Hote for the Cabinet Committee on Political Affairs on the subject of the dispute regarding the ashes of Netaji Subhas Chandra Bose and also the controversy whether he is dead or alive and the decision of the Cabinet Committee thereon are covered under Article 74(2) of the Constitution of India read with Sections 123 & 123 of the Evidence Act.

25. With reference to paragraph 26 of the said writ petition, save as aforesaid and save what appears from the records, all allegations contrary ther eto and/or inconsistent therewith are denied and disputed. I state the Hon'ble Court car peruse the records for satisfying itself about the bonafides and genuinences of the plea of privilege.

27. That the statements made in paragraphs 1 % 4

are true to my knowledge and those contained in

paragraphs 5 % 25 and are my

informations derived from the records which information I

verily to be true and those made in paragraphs and to the

are my humble submissions to this Hon'ble Court.

Prepared in my office

Advocate.

The deponent is known to me

Clerk to

Mr.

Solemnly affirmed before me this the day of 1993.

Advocate

Commissioner.

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S. K. KUNDU CENTRAL GOVT. ADVOCATE Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta. 4, K.S.Roy Road, Calcutta - 1

Shri L.B. Singte. Director (QSM/Vig.) Ministry of Home Affairs. North Block.

Dear sir.

C.O. No. 6720(w)/92 Bijan Ghosh -VS-WI & Anr.

I hope the communication dt. 9th December 1993 with enclosures has been received by you.

I am now forwarding herewith a copy of the supplementary affidavit filed by Shri Amiya Math Bose, one of the added respondents and a copy of the application for addition of parties.

Kindly do the needful and give necessary instructions at an early date.

I propose to deal with your letter dt.5th November, 1993 written to Shri Kannan, Addl. Legal Adviser, afterwards.

Encl: As above.

Yours faithfully,

(S K Kundu)

Copy to :

1. Shri P.C. Kannan. Addl.Legal Adviser. Ministry of Law Justice & CA Deptt. of Legal Affairs. Shastri Shawan. New Delhi 110001 - for information.

SPEED 2. Shri V.p. Bhatia. Undersecretary. Min. of Home Affairs. North Block New Delhi - 110001 - for information.

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S. K. KUNDU CENTRAL GOVT. ADVOCATE / 7

Government of India
Ministry of Law & Justice
Department of Legal Affairs
Branch Secretariat, Calcuttae
4, K.S.Roy Road, Calcutta - I

SPEED POST

. 15/B/Home/92 787 7674 Dated 13.12

Shri L.B.Sinate,
Director (O&M/Vig.)
Ministry of Home Affairs,
North Block,
New Delhi 110001

Dear sir,

C.O. No. 672O(w)/92 Bijan Ghosh -Vs-UOI & Anr.

I hope the communication dt.9th December 1993 with enclosure has been received by you.

I am now forwarding herewith a copy of the supplementary affidavit filed by Shri Amiya Nath Bose, one of the added respondents and a copy of the application for addition of parties.

Kiddly do the needful and give necessary instructions at an early date.

I propose to deal with your letter dt.5th November, 1993 written to Shri Kannan, Addl. Legal Adviser, afterwards.

Encl: As above.

Yours faithfully,

(s K Rundu 13/12/93

Copy to :

SPEED

1. Shri P.C. Kannan, Addl. Legal Afviser, Ministry of Law Justice & CA Deptt. of Legal Affairs, Shastri Bhawan, New Delhi 110001 - for information.

2. Shri V.P. Bhatia, Undersecretary, Min. of Home Affairs, North Block New Delhi - 110001 - for information.

New Delhi - 110001 - for information of the parameter of

(S K Kundu)



DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA '
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)

C.O.NO. 6720(W) OF 1993.

In the matter of :

An application under Article 226 of the Constitution of India;

AND

In the matter of:

A Writ in the nature of Mandamus and of Certiorari and/or any other writ or writs, order and/or orders, direction and/or directions etc.;

AND

In the matter of :

The highest Civilian Award 'Bharat Ratna' conferred upon Subhas Carri. Chandra Bose Posthumously without having any official declaration by Union of India of His death and/or admission of His death; etc.

AND

In the matter of :

Bijan Ghosh, Advocate practising at High Court at Calcutta son of Sri Benoy Krishna Ghosh, B-172,

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B.E.College, Howrah..

Petitioner.

VS.

- 1. The Union of India represented the Secretary, Ministry of Home Affairs, New Delhi 110001.
- 2.The Union of India service
 through the Secretary, Ministry
 of Human Resources & Development,
 New Delhi 110001.

Respondents.

Supplementary Affidavit

- I, Amiya Nath Bose, son of late? Sarat Chandra Bose, aged about 78 years, at present residing at 226/4A, Netaji Subhas Chandra Bose Road, Calcutta 700 040, do hereby solemnly affirm and say as follows:-
- 1. In terms of an order passed by the Hon'ble Mr. Justice
 Shyamal Kumar Sen on 29th September 1993 the following papers
 were sent to me by the Ministry of Home Affairs of the Government of India:-
- (i) A copy of the Notification setting up the Khosla Commission;
- (ii) A copy of the Memorandum of Action Taken (on the Report of the Khosla Commission) laid before Parliament; and
- (iii) A copy of the Press Communique issued by Rashtrapati
 Bhavan regarding award of Bharat Ratha to Netaji.
- 2. Before I deal with the findings of the Khosla Commission
 I would like to place certain facts before this Court because
 I feel that they have some bearing on the subject matter of the present enquiry.

3.

3. On the 1st of October, 1949 People's Republic came to power in China. On the same day Sarat Chandra Bose sent the following telegram to Mao Tse-Tung:-

Mao Tse-Tung Chairman Central People's Government of Republic of China Peiping (Peking)

Sincerest felicitations to you and people of China on behalf of self and Socialist Republican Party and progressive forces and newspaper "The Nation" on your unanimous election as Chairman. Feel gratified today that I predicted in September 1945 Chiang Kai-Shek's early overthrow and your coming into power as Chinese leader. Hope you will cement good relations, deplomatic and otherwise, between China and India and lay foundation of Asian Bloc for Counteracting machinations of Western imperialists and freeing all Asiatic countries from foreign yoke.

I, Woodburn Park, Calcutta 1-10-1949

4. On the 22nd of October 1949, Sarat Bose received the following reply from Mao Tse Tung:-

Very urgent 11.50 p.m. 388, Peking 22nd Sri Sarat Chandra Bose, 1, Woodburn Park, Calcutta

Thank you for your greetings to the People's Republic of China. The Chinese people welcomes the establishment of a broad friendship with the Indian people and all poressed nations jointly to oppose imperialist aggression.

Mao Tse Tung

- 5. On the 20th of August 1949, Sarat Bose suffered a major heart attack at a public meeting in the Calcutta Maidan. As a consequence thereof he was confined either to his bed of the 1st floor of his residence at 1, Woodburn Park, Calcutta, till the end of November, 1949.
- Prime Minister Nehru granted recognition to the People's Republic of China quite sometime after October 1949, as Nehru was a great friend and advisor of Chiang Kai Shek.

7. In November 1949, we started hearing over the radio in Calcutta the following broadcast:-

"Netaji Subhas Chandra Bose will soon speak to the Indian people".

we heard the broadcast continously for almost three weeks. The above broadcast was being made by a lady. From her pronunciation it was clear that the lady was either a Chinese of a Japanese woman. From my contacts in London, which I had established during my stay there till November 1944, I was able to ascertain that the above broadcast was being beamed from China.

But we never heard any broadcast by Subhas Chandra Bose.

- 8. My father Sarat Chandra Bose died on 20th February, 1950.
- 9. Just about a month before Nehru's death, I met him at his residence in Delhi. At that time he was not keeping well. I had known him since my school days. I went to Delhi to demand that he should institute a fresh and proper enquiry to go into the question of Netaji's disappearance. During my discussion Nehru agreed with me that the findings of the Shah Nawaz Enquiry Committee were not acceptable. I suggested to him that a Commission of Enquiry under the Chief Justice of India should go into this question. On my return to Calcutta I whote to Pandit Nehru repeating my demand. He duly replied to my letter in which he stated:-

" I agree with you that something should be done to finalise the question of Netaji's death. Though I am not sure if I can request the Chief Justice of India to undertake this task as he will have to visit many countries for the purpose".

About a fortnight after I received the letter from Jahawar Lal Nehru he died. I could not, therefore, pursue the matter with him.

- 10. In 1967, I was elected a member of Parliament from the Arambagh Parliamentary Constituency by defeating Mr. Sachin Chowdnury, who was then the Finance Minister in Indira Gandhi's Cabinet.
 - 11. In 1969, there was a strong demand by a large member of members of Parliament that a fresh enquiry ought to be made to enquire into the circumstances of Netaji's disappearance. Prime Minister Indira Gandhi formed a Parliamentary Committee with Shri Y.B.Chavan, the Home Minister, as its Chairman to consider the matter. I was a member of that Parliamentary Committee. I demanded the setting up of a Commission of Enquiry under the Commissions of Inquiry Act, 1952. I handed over the original of Jahawar Lal Nehru's letter to me, which he wrote just prior to his death, to Shri Y.B.Chavan. In fact, Nehru's letter to me clinched the matter.
- 12. Shri Chavan informed the members of the Parliamentary Committee that he would submit a report to the Cabinet.
- 13. A few days, thereafter, Indira Canchi requested me to come to here residence as she desired to acquaint me with the decision of the Cabinet regarding the matter. She told me at her house that the Cabinet had decided to constitute a Commission of Inquiry. She asked for my suggestion as to who should be appointed. I told her that I would Justice Phanibhushan Chakravarti of Calcutta to head the Commission of Inquiry. I

promised to inform her about Justice Chakravorti's acceptance after I return to Calcutta. She agreed to wait till she heard from me. The next day I took the Rajdhani Express for Calcutta. I was shocked to hear in the train over the radio during my journey that the Government of India had appointed Justice G.D.Khosla as the Sole member of a Commission of Inquiry. I never expected this breach of faith on the part of India Gandhi, whom I had known well since my childhood.

- 14. When the Khosla Commission commenced its sittings in Delhi, I appeared before it for three days and made some submissions on the subject matter of enquiry. Justice Khosla desired that I should give evidence regarding the wrist watch, when which Netaji was alleged to have been wearing at the time of the so-called aircrash at the Taihoku Airport. As I agreed to do so, I decided not to appear further as a counsel before the Khosla commission.
- 15. I gave evidence before the Commission regarding the rectangular wrist watch in Calcutta and also produced it before Justice Khosla for his inspection. In course of my evidence before Justice Khosla I stated in substance what I have stated in paragraphs 22,23,24,25,26 and 27 of my affidavit dated 7th May,1993 filed in these proceedings. I stated quite clearly before Justice Khosla that the rectangular wrist watch was never worn by Netaji during his entire stay in East Asia. He was wearing a round wrist watch when he boarded the plane at. Bangkok on the 16th of August 1945. From Bangkok he arrived in Saigon and then left for an unknown destination.

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could have made such # false statements in his report.

17. Mr. E.Bhaskaran who worked as the stenographer of Netaji in East Asia also gave evidence before Justice Khosla. Bhaskaran always resided with Netaji in Singapore, Bangkok and in Rangoon. He stated before the Khosla Commission that when he went to the Bangkok Airport on the 16th of August 1945 to see-off Netaji, Netaji was wearing a round wrist watch. Khosla rejected Bhaskaran's evidence as unreliable as it did not suit his purpose. Evidently, Khosla was given directions by the then Government of India to come to the finding that Netaji died in an aircrash at Taihoku Airfield on the 18th of August 1945.

18. Even before Justice Khosla submitted his report on June, 1974
30,1945, he brought out a book written by him on Netaji where he called Netaji a "Japanese Agent".

one of my cousins late Dwijendra Nath Bose filed an action for criminal defamation before the Chief Presidency

Magistrate in Calcutta. I was at that time appearing in a criminal case before the same Magistrate in Calcutta. Mr. J.P.

Mitter, counsel along with Chamanlal were appearing for the prosecution and I was appearing for the accused in that case.

- 20. The Chief Presidency Magistrate issued summons against
 Justice Khosla in the action filed by late Dwijendra Nath Bose.
 Justice Khosla did not choose to appear in the Court of the
 Chief Presidency Magistrate. The Magistrate then issued a
 warrant of arrest against him.
- 21. Mr. J.P.Mitter requested me to persuade my cousin Dwijen not to press for Khosla's imprisonment. In a moment of weakness, I did persuade my cousin Dwijen not to press for Khosla's imprisonment.
- 22. Justice Khosla appeared before the Chief Presidency
 Magistrate, tendered unconditional apology for the remarks he
 had made about Netaji in his book and agreed to withdraw all the
 copies of his book immediately from circulation. On the above
 terms, Justice Khosla was acquited by the Chief Presidency
 Magistrate of Calcutta.
- 23. It will be interesting to mention here that Khosia had also written an adulatory biography of Indira Gandhi.
- 24. I humbly submit that the entire object of Justice Khosla was not to ascertain the truth about Netaji's disappearence, but to defame and dishonour Netaji Subhas Chandra Bose, may be under the directions of the then Government of India.
- 25. I humbly submit that Justice Khosla did not nor was he interested in conducting a proper enquiry into the circumstances of Netaji's disappearence, and no reliance should, therefore, be placed by this Court on his findings.
- 26. I submit that the present Government cannot possibly rely on the findings of the Khosla Commission after the statement

Prime Minister Morarji Desai made in Lok Sabha on September

3rd, 1978. In this connection I beg leave to refer to paragraphs

37 and 38 of my affidavit dated 9th May 1993 filed in these
proceedings. The Government of India has not disclosed any
fesh materials subsequent to September 1978. In my submission
the Government of India cannot fall back on the report of the
Khosla Commission.

- 27. In my affidavit of 7th May 1993, I have annexed photocopy of a letter dated 22nd July 1946 written by Khurshed Naoroji to Louis Fischer, the famous American Journalist and press Adviser to the American Administration in 1946. The letter of Khurshed Naoroji is, in fact, the letter of Gandhiji. The letter proves conclusively that Subhas Chandra Bose was alive and in Russia in July 1946.
- 28. I went to England for the first time in March 1937. I visited Germany and Vienna in 1937,1938 and in June 1939.

 During my visits to Vienna I came to know one R.Madan, who was then a medical student in Vienna. During the War, R.Madan became closely associated with the Free India Movement in Germany and came into close contact with Netaji during Netaji's stay in Europe between the years 1941 and 1943. After the war, R.Madan returned to Delhi having completed his medical studies in Vienna. Dr. R.Madan became a leading Eye Specialist in Delhi, who was frequently consulted by Jahawarlal Nehru. I used to visit Delhi quite frequently till 1975 for appearing in different cases there. I was also a Member of Parliament for one term' from 1967. During my visits to Delhi, I used to meet Dr. Madan quite often.

- 10 -

- 29. Dr. Madan told me that Col. Habibur Rahman, who accompanied Netaji in the plane from Saigon in August 1945, informed him that the aircrash story was concocted to enable Netaji to reach a territory, from where he could continue India's strugle for freedom. According to Dr. Madan, Netaji was held by the Russians in a concentration camp.
- 30. This fact completely demolishes the story of Netaji's death in an aircrash and falsified the findings of the Khosla Commission.
- 31. When I was the Indian Ambasador in Burma, I came to know very well the Ambasador of Pakistan, His Excellency Irtaza Hossain. Irtaza Hossain was a student of Allahabad University and had met Netaji once, when Netaji visited the Muslim Hostel in Allahabad. Irtaza Hossain was a great admirer of Subhas Chandra Bose.
- 32. When I was the Ambasador in Burma, I came into close contact with Ne Win, who was then the President of Burma. Ne Win knew Habibur Rahman well. Ne Win did not believe that Netaji died in an air-crash. Irtaza Hossain and I jointly met President Ne Win in 1979 and requested him to invite Col. Habibur Rahman to come to Rangoon as a Special Guest on Burma's Independence Day on 4th January 1980. President Ne Wings. invitation to Col. Habibur Rahman was communicated to him through the Pakistan Government. Col. Habibur Rahman accepted President Ne Win's invitation to come to Rangoon. But unfortunately, Col. Habibur Rahman died of a sudden heart attack before January 1980.
- 33. In view of the facts I have stated in this affidavit as well as in my affidavit of 7th May 1993, I humbly pray that this Court do set aside the Report of the Mhosla Commission and consign it to the dústbin of history.
- 34. I state and submit that this Court should direct the

Government of India to produce before this Court all official records which prompted the Government of India to issue the following press communique:-

"BHARAT RATNA

The President is pleased to confer the award of Bharat Ratna Posthumously on Shri Subhash Chandra Bose."

Rashtrapati Bhavan, New Delhi.

January 22, 1992".

I submit that the Government of India should be directed to publish the official records in its entirety for the information of the people of India. The Government of India cannot claim any previlege in respect of these documents on the ground of public interest. The Government of India must inform the people of this country why it decided to confer "Bharat Ratna/Posthumously". Security of this country will not be jeopardized if such information is given to the people of India.

- 35. Subhas Chandra Bose is not an ordinary incividual. It is primarily the strugle of Netaji and his Indian National Army which brought freedom to this country. The people of Indian National Army which fundamental right to be informed as to what happened to Netaji after July 1946.
- 36. There is now conclusive evidence that Subhas Chandra Bose was alive and in Russia in July, 1946. The people of India have a right to be informed as to what happened to Subhas Chandra Bose after July 1946.
- 37. The British Government is now making public a large volume of secret and Intelligence documents. The Russian Government is also negotiating with a number of parties in America and Germany for sale and eventual publication of K.G.B. Tocuments.

 A good deal of information which were till now kept secret by the British and Soviet Governments.

will soon be available to the public.

38. The Parliament of India represents the Indian people.

I humbly pray that this Court should direct the Government of India to request the Speaker of Lok Sabha to set up a Joint Parliamentary Committee to enquire into the question as to what happened to Subhas Chanira Bose after July 1946. In my submission, a Joint Parliamentary Committee will be the most suitable body to find out where, when, and in what circumstances Netaji died, if in fact, he is dead. The people of India have a fundamental right to know and be told about the fate of the Liberator of this country:

39. That the statements contained in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 247, 28, 31, 32, 36 and 37 above are true to my knowledge. The statements contained in paragraph 29 of this affidavit are based on information received from Dr. R. Madan. The statements contained in paragraphs 24, 25, 26, 30, 33, 34, 35 and 38 are my submissions to this Hon ble Court.

Prepared in my office

(Advocate)

Solemnly affirmed before me on this /S/day of December, 1993

COMMISSIONER

DEPONENT Box

Amiya Nath Bose Barrister-at-Law High Court, Calcutta

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MOST IMMEDIATE/BY HAND

No.1/27/91-Public
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

1 5 DEC 1993

New Delhi, the 15th December, 1993.

Subject:-C.O. No.6720(W) of 1993 - Bijan Ghosh versus Union of India and ors. - Judgement of Hon'ble High Court, Calcutta dated December 6,1993.

As directed by Shri M.Venkateswara Iyer, Joint Secretary in the Ministry of Home Affairs, a copy of the order dated December 6,1993, passed by the Hon'ble High Court Calcutta in the above mentioned case is sent herewith for your perusal and necessary action.

Under Secretary to the Govt. of India.

Shri P. Parmeswaran, Dy. Central Government Advocate, Supreme Court of India, Room No.125, New Delhi.

TO THE HOLE & I

MOST IMMEDIATE/BY SPEED POST



V.P. BHATIA, UNDER SECRETARY(PUB. & VIG.), TEL.NO.3012421.

D.O. No. 1/27/91-Public

गृह मंत्रालय
भारत सरकार
नाथं ब्लाक, नई दिल्ली-११०००१
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
NORTH BLOCK, NEW DELHI-110001

DATED THE 24th DECEMBER, 1993.

Dear Shri Kundu.

Kindly refer to your letters No.15/B/Home/93/735/704-A, dated 26th November,1993 and no.15/B/Home/93/747/7.8A, dated 30th November, 1993, sending therewith a copy of supplementary affidavit filed on behalf of Dr. Susanta Kumar Mitra, Respondent No.5; a copy of the amended Writ Petition filed by Shri Bijan Ghosh, Petitioner and a copy of the affidavit filed by Prof. Samar Guha, another added Respondent in the matter of C.O.No.6720(W) of 1993.

- 2. All these three affidavits have been gone into carefully and parawise comments have been prepared. I am sending herewith a copy each of the three affidavits under reference together with parawise comments thereon.
- 3. As regards supplementary affidavit filed by Shri Amiya Nath Bose, added Respondent, parawise comments are under preparation and will be sent to you in a couple of days.
- 4. As per the order dated 6th December, 1993, counter-affidavits in respect of these three affidavits are to be filed by the 8th January, 1994. In view of the limited time available for filing the counter affidavits, I shall be grateful if you could kindly have the parawise comments settled expeditiously by Shri R.N. Das, Senior Panel Counsel and the counter-affidavits so settled returned to me at your earliest convenience to enable us to formally file them in the High Court at Calcutta by the last date i.e. 8th January, 1994.
- A line in reply will be much appreciated.

With regards,

Yours sincerely,

(V.P. BHATIA)

Shri S.K. Kundu,
Central Government Advocate,
Ministry of Law & Justice,
Deptt. of Legal Affairs,
4-K.S. Roy Road, Branch Secretariat,
Calcutta.

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Speed Pres
24/12/97

W/W/12/97

No.1/27/91-Public

Dated: 24# December, 1993.

Copy, along with a copy each of the parawise comments in respect of the supplementary affidavit filed by Dr. Susanta Kumar Mitra, amended affidavit filed by Shri Bijan Ghosh and affidavit filed by Prof. Samar Guha, another added Respondent, forwarded to Shri R.N. Das, Senior Panel Counsel, Calcutta High Court, 88, Chowrangee Road, Calcutta with the request that he may kindly spare sometime to settle these parawise comments at his earliest convenience to enable this Ministry to file the counter affidavits well before 8th January, 1994. A copy each of the above three affidavits are also pent herewith.

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(V.P. BHATIA) UNDER SECRETARY TO THE GOVT. OF INDIA.

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PARAWISE COMMENTS IN RESPECT OF SUPPLEMENTARY AFFIDAVIT OF ADDED RESPONDENT, DR. SUSANTA KUMAR MITRA:

- Para 1: requires no comments.
- Para 2: The affidavit-in-opposition to the affidavit earlier filed by Dr. Susanta Kumar Mitra, has already been filed on 6.12.93.
- Para 3: The contentions of the Petitioner in para 3 is his own understanding of the subject and does not call for any specific comments.
- Para 4: Needs no comments.
- Paras5 The contentions of the added Respondent make it abundantly clear that the action on the part of Prof. Samar Guha with reference root the copy of the report of the Khosla Commission was his instant reaction to certain remarks of Shri Khosla about Netaji Subhas Chandra Bose in the report and it was to clarify the Government's stand that the then Prime Minister, Mrs. Indira Gandhi intervened and categorically stated that the Government did not accept Khosla's personal views about Netaji Subhas Chandra Bose or the full text of his report the Government accepted only its findings to the effect that Netaji died in an air-crash on 18th August, 1945, at Taihoku.
- Para 7: The contention of the added Respondent in para 7 is only reiteration of the statement by the then Prime Minister, Shri Morarji Desai made on 28th August, 1978 in the Lok Sabha about which this Respondent has earlier, in response to the main writ petition and other petitions filed by added Respondents averred that Shri Desai also concluded his statement by the words "No useful purpose would be served by having any further inquiry." It is, therefore, incorrect to say

that this Respondent has not said anything about this statement of Shri Morarji Desai except that the above statement was made in the Lok Sabha on 28th August, 1978.

Para 8:

With reference to the contentions of the added Respondent in para 8 of this supplementary affidavit it is respectfully stated that the speech delivered by Prof. Samar Guha in the Lok Sabha is not a full reproduction of the said speech as some portions thereof have been omitted. Besides, when the Chairman specifically asked Prof. Guha "Are you withdrawing your motion?", Prof. Samar Guha stated "There is no necessity of any fresh inquiry because I know Netaji is alive". Thereafter, with the pleasure of the House the Chairman permitted Prof. Samar Guha to withdraw the motion.

Paras9 &10 :

The contention of the added Respondent in para 9 is denied inasmuch as the matter was considered by the Government later i.e. in February, 1991, with full knowledge of the said statement of Shri Morarji Desai made in Parliament in the year 1978, when it decided that since two inquiries had already been held on the disappearance of Netaji Subhas Chandra Bose, and Government have already accepted that Netaji died in an aircrash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. In connection with the reference in this para to the motion of Prof. Samar Guha for consideration of report of the Khosla Commission,

already been stated, the same was withdrawn with the pleasure of the House and the permission of the Chairman.

Para 11&12: The contentions of the added Respondent in these paras are irrelevant as the main conclusion of two inquiries already held, namely that Netaji died in an aircrash at Taihoku on 18th August, 1945, has already been accepted by Government.

Para 13: The contents of this para are irrelevant since Government of India again considered the matter in 1991 and decided to accept the findings of the Khosla Commission that Netaji died in an aircrash on 18th August, 1945 at Taihoku.

Para 14: With reference to the contentions of the added Respondent in para 14 of his supplementary affidavit and the documents mentioned in the Transfer of Power 1942-47, as already submitted in reply to the writ petition filed by Shri Bijan Ghosh, these have no direct bearing on the aspect of death of Netaji Subhas Chandra Bose. In view of the acceptance by the Government of India, the death of Netaji in an aircrash at Taihoku on 18th August, 1945, the question of stay of Netaji in Soviet Russia after A the said period, does not arise. All allegations contrary to it are denied and disputed.

Para 15: The contents of this paragraph are irrelevant in view of acceptance by Government of the conclusion of Khosla Commission namely that Netaji died in an aircrash on 18th August, 1945 at Taihoku.

Para 16 : No comments.

Para 17: The claim of privilege has been rightly made. The rest of the contents of this para are incompetent, irrelevant and immaterial.

Para 18; The contents of this para are denied. The claim of privilege has been rightly made.

Para 19 : No comments.

Para 20: : With reference to the contentions of the added Respondent in para 20, it is respectfully submitted that in view of the position as stated earlier, the motion by Prof. Samar Guha was withdrawn with the pleasure of the House with the remarks by Prof. Samar Guha that "there is no necessity of any fresh inquiry....."

Paras 21to 28: The contents of these paras are incompetent, irrelevant and immaterial. The stand taken by the Government in this matter has already been made very clear in all the affidavits already filed before this Hon'ble Court. Both the Shah Nawaz Committee & the Khosla Commission came to the conclusion that Netaji Subhas Chandra Bose died on 18th August, 1945, in an aircrash at Taihoku and this conclusion has been accepted by the Government.

Para 29 : No comments.

Para 30 : No comments.

Para 31 : No comments.

Para 32: The contentions of the added Respondent in para 32 merit outright rejection. It is, therefore, prayed accordingly.

Para 33 : No comments.

PARAWISE COMMENTS IN RESPECT OF AMENDED WRIT PETITION FILED BY SHRI BIJAN GHOSH

Para 1 : Needs no comments.

Para 2

With reference to the contention of the Petitioner in para 2 of the amended Writ Petition (hereinafter referred as the said petition), it has already been stated in the reply to the main petition of the petitioner that the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died in an aircrash at Taihoku on 18th August, 1945 and hence the award of Bharat Ratna to Netaji regarded as "posthumous". As regards the contention that without the specific report of death of Subhas Chandra Bose, Government cannot and should not describe the conferment as 'posthumous', it may be clarified that the Memorandum of Action Taken on the Report of Khosla Commission to the effect that Netaji Subhas Chandra Bose died in an air-crash on 18th August, 1945, at Taihoku air field in Taiwan having been laid on the Table of both the Houses of Parliament on 3.9.1974, the same became a public document and deemed declaration by the Government that Netaji died in an aircrash at Taihoku on 18.8.1945.

Para 4

With reference to the contention of the petitioner in para 4 of the said petition, it is incorrect to say that the Government headed by Smt. Indira Gandhi had not accepted the report. In fact, the second enquiry body was ordered keeping in view the widespread feeling amongst the public that the problem of finding the truth about Netaji's death still remains and also on account of per in each demand for a further

- 2 -

inquiry. As already stated, the findings of both Netaji Inquiry Committee and Khosla Commission to the effect that Netaji died in an air-crash on 18.8.1945, were again considered and accepted by Government in February, 1991. This was long after the statement made by Shri Morarji Desai in Parliament on 28th August, 1978.

As regards the alleged Third Inquiry Commission ordered by the then Prime Minister, Shri Chandrasekhar, it has already been stated in reply to the main petition that no records are available in this Ministry.

- Para 4A: The contention of the petitioner in the said petition calls for no comments in view of the fact that Government have already accepted the findings of Netaji Inquiry Committee (1956) and Khosla Commission (1970) that Netaji died in an aircrash on 18.8.1945.
- Paras 5%6: The contentions of the petitioner in paras 5 % 6 of the said petition are denied inasmuch as the decision to confer Bharat Ratna on Netaji was taken keeping in view his relentless struggle for the independence of India and his great contribution for the casue of India's freedom. The contention that conferment of Bharat Ratna on Netaji is an insult to him rather than an honour is the personal view of the petitioner which is incorrect.
- Para 7: With reference to the contentions of the petitioner in para 7 of the said petition, as already stated, it is petitioner's own view to regard conferment of Bharat Ratna as dishonour to him. As already stated in reply to the main petition, it was also keeping in view the sentiments

of the Hon'ble Members of Parliament expressed on 7th August, 1991 in connection with a Special Mention by Shri Pramod Mahajan, MP, Rajya Sabha and in recognition of public service of the highest order, the names of Maulana Abul Kalam Azad and Netaji were approved by the President of India for the Award of Bharat Ratna and the same were announced on 23rd January, 1992. The decision to confer Bharat Ratna posthumously on Netaji was taken keeping in view his relentless struggle and contribution for the cause of India's freedom. It would not be appropriate to compare one recipient of Bharat Ranta with another. All recipients of Bharat Ratnahave their own standing and excellence each in his It would be wrong to say one is own way. superior and another is inferior.

Para 7A

The contention of the petitioner in para 7A of the said affidavit speaks about the standing of Netaji and his valiant role for the cause of India's independence. However, the contention of the Petitioner that no honour, title or award can even dare to approach even the shadow of his towering personality is his personal view and does not call for any specific comments.

Para 8

It is denied, as alleged by the petitioner in para 8 of the said petition, that the award of Bharat Ratna was conferred on Netaji without any application of mind. It was only in recognition of and having regard to Netaji's contributions and his highest service to the cause of India's freedom that the said award of Bharat Ratna was announced to be conferred on him by the President. While conferring National States

award, no one is brought within the parametres of limitation. Rather it is a reflection of Nation's esteem and conveys the same message to the international communities and the comity of nations. As rightly stated by the petitioner, the public sentiments, emotions and feelings did play a great part in the conferment of Bharat Ratna on Netaji Subhas Chandra Bose. It is denied that by this action the Government has in any way insulted Netaji or defamed and disregarded him in any manner. However, as already stated in the reply to the main petition, keeping in view the widespread public reaction and sentiments of the people and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement, to take any further action in the matter and to treat the matter as closed.

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Para 8A : The contention of the petitioner in para 8A of the said petition is incorrect and is denied.

Para 9 : Calls for no comments.

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Paras 10 &11: With regard to paragraphs 10 & 11 of the said petition, the contentions of the petitioner are not relevant in view of the Government of India having already accepted the conclusion of the Netaji Inquiry Committee (1956) and Khosla Commission(1970) that Netaji died in an air-crash on 18.8.1945 at Taihoku.

Paras 12&12A: The contentions of the petitioner in paras

12 & 12A are reflective of his strong feelings
about Netaji. Since two inquiries have already
been held about his disappearance and both
have concluded that Netaji died in an air-crash
on 18.8.1945 and Government having accepted
these findings, there is nothing to suggest,

as contended by the petitioner, that Netaji was alive on the date of impugned honour. As already stated the matter was considered as late as in 1991 and agreeing with the findings of the two inquiries Government decided that no useful purpose would be served by holding another inquiry. This decision was taken long after the statement made in Parliament in 1978 by the then Prime Minister, Shri Morarji Desai.

Paras 12B,C&D:With reference to the contentions of the petitioner in paras 12B,C & D of the said petition, it is reiterated that despite the view expressed by various Members during the discussion on the Motion by Prof. Samar Guha together with the statement of the then Prime Minister, Shri Morarji Desai, Shri Desai categorically stated that no useful purpose would be served by holding another inquiry. Further, when the Chairman specifically asked Prof. Guha "Are you withdrawing your Motion?", Prof. Guha stated "There is no necessity for any fresh inquiry....".

Thereafter, with the pleasure of the House, the Chairman permitted Prof. Guha to withdraw the Motion.

Paras 13tol6: With reference to the contention of the petitioner in paras 13,14,15 & 16 of the said petition, as already stated in reply to the main petition, it is the petitioner's own view that freedom of information should be honoured as a fundamental right.

Para 17 : It is denied that Netaji is being declared dead under the camouflage of the award of Bharat Ratna posthumously. In fact, the award has

been termed as posthumous based on the acceptance by the Government of the findings of the two inquiries to the effect that Netaji died in an air-crash on 18.8.1945.

- Para 18: As already stated, Government are of the view that no useful purpose will be served by holding another enquiry.
- Para 18A : The contention of the petitioner in para 18A does not require any comments since it has no relevance to the conferment of Bharat Ratna posthumously on Netaji Subhas Chandra Bose.
- Para 18B: The contents of this para call for no comments

 Since Government have already accepted the conclusion
 of both Netaji Inquiry Committee (1956) and
 Khosla Commission (1970) to the effect that
 Netaji Subhas Chandra Bose died on 18-8-1945
 in an air-crash at Taihoku and no useful purpose
 will be served by holding another enquiry.
- Para 19: With reference to the contention of the petitioner in para 19, it is respectfully submitted that it was only after giving full opportunity to Prof. Samar Guha and others that Shri Khosla came to the conclusion that Netaji died in an air-crash at Taihoku on 18th August, 1945.
- Para 20 : Reference to the contention of the petitioner in para 20, in view of the acceptance of the findings of the Netaji Inquiry Committee and the Khosla Commission that Netaji died on 18th August, 1945 in an air-crash, it calls for no comments.
- Para 21: With reference to the contentions of the Petitioner in para 21, it has already been averred in reply to the affidavit of Dr. Susanta Kumar Mitra, an added Respondent that Shri Dhaniklal Mandal,

the then Minister of State in the Ministry of Home Affairs did not make a statement in the Parliament but only replied to a Parliament Question in the Lok Sabha on 11th April, 1979. However, the matter was considered by the Government as late as in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji and Government had already accepted that Netaji died in an air-crash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. It is, therefore, denied that the findings of Netaji Inquiry Committee and Khosla Commission are indecisive and not accepted by the Government.

Para 22 ; The contentions of the Petitioner are strongly refuted and denied. It was in recognition of his relentless struggle for India's independence and his public service of the highest order that the award (posthumously) of Bharat Ratna was announced for Netaji by the President of India. It is denied that the description 'posthumous' was 'purposive'.

Para 23 : No comments.

Para 23A : No comments.

Para 23-B : No comments.

Para 23-C; No comments except that these allegations against Shri Khosla who is no more are not in good taste.

Para 23-D: The contention of the petitioner in this para are misconceived and as such denied.

Para 23-E: The contents of the para are irrelevant as the main conclusion to the effect that Netaji died on 18.8.1945 in an air-crash at Taihoku has been accepted by the Government.

Para 23-F : The contentions of the petitioner in para 23F are denied. The Memorandum of Action Taken laid on the Table of both the Houses of Parliament accepting the findings of the khosla Commission that Netaji died in an air-crash on 18th August, 1945 at Taihoku, is not invalid, stale and nonest since the matter was considered again in February, 1991 and the Government held the view that Netaji died in the said air-crash and no useful purpose

Para 23-G: With reference to the contentions of the petitioner in para 23G, it is stated that the said Motion was withdrawn with the pleasure of the House and with the admission of the Mover stating

that 'there is no necessity for any fresh inquiry..."

would be served by holding another inquiry.

Para 23H : Calls for no comments in view of the reply to para 23G.

Para 23-I to 23-L, as already stated, the in paras 23-I to 23-L, as already stated, the matter has been considered as late as in February, 1991, with full knowledge of the statement of the then Prime Minister, Shri Morarji Desai in 1978, when it was decided that since two inquiries had already been held on the disappearance of Netaji and Government having already acceepted that Netaji died in an air-crash on 18th August, 1945, at Taihoku, no useful purpose would be served by holding another inquiry.

Para 24: : With reference to the contention of the petitioner in para 24, it has already been stated repeatedly that the award of Bharat Ratna to Netaji was regarded as posthumous in view of Government's acceptance of the conclusion of the Netaji Inquiry Committee and Khosla Commission that Netaji died at Taihoku in an air-crash on 18.8.1945.

...91-

- Para 25 : The contents of para 25 are denied since after the Netaji Enquiry Commission headed by Shri Khosla, no other Commission of Inquiry has been ordered by the Government.
- Para 26; These allegations are uncalled for, unfounded, unwarranted and misconceived.
- Para 27; As this is petitioner's own version, the contents of this para call for no comments.
- : The contentions of the petitioner in para 28 Para 28 are emphatically denied. The very fact of the acceptance by the Government of the findings of the Khosla Commission and laying copies of the Memorandum of Action Taken on the report of the said Commission on the Table of both the Houses of Parliament, stating inter alia that the Government have examined the report and have decided to accept the findings of the Commission that Netaji died in an air-crash on 18th August, 1945 at Taihoku air-field in Taiwan, amounts to making this information public and as such it would be wrong to construe that Government did not make any official declaration of the death of Netaji.

The various grounds of the Petitioner under para 28 of this amended writ petition are dealt with as under:

- I. The contention of the Petitioner is denied in view of the clarification given in response to para 28 above.
- II & III : It is denied that the award of Bharat Ratna

 posthumously was conferred on Netaji in a mechanical

 approach and non-application of mind. However,

 since Government have decided not to take any

further action in the matter of conferment of Bharat Ratna on Netaji and to treat the matter as closed, no further comments are called for as requested in this ground. In view of this position, as Government is not proceeding any further in the matter, it is not considered necessary to withdraw, cancel, revoke and rescind the said Press Communique.

IV to VI

: Bharat Ratna is given for exceptional service towards the advancement of art, literature and science and in recognition of public service of the highest order. It would be wrong to draw comparison with or amongst the other recipients. As already stated, the contentions of the petitioner that by conferring Bharat Ratna on Netaji, Government has dishonoured him his own pretation and view. As it has already stated that Government has treated the matter as closed and is not handing over the Bharat Ratna decoration to anybody or any institution on his behalf, the contention of the petitioner is unfounded and uncalled for .

VII

: This is Petitioner's own thinking and calls for no comments.

VIII to XI

while declaring the award of Bharat Ratna posthumously on Netaji, Government gave its careful consideration keeping in view the popular demand of the Members of Parliament and keeping in view his relentless struggle for India's freedom and his public service of the highest order and as such there is no question of ridiculing or dishonouring or defaming him. It is further denied that conferring on him 'Bharat Ratna' is a psychological absurdity or dead proof of 'purposiveness'.

In view of this position, Government have not in any way slighted Netaji by conferring Bharat Ratna posthumously on him.

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XII

: The contention of the petitioner is denied since in not only in 1978 but much later i.e. 1991 Government of India again considered the matter and decided to accept the finding of the Khosla Commission that Netaji died in an air-crash on 18th August, 1945 at Taihoku.

XIII

: In view of the position as stated above there is nothing wrong in declaring the award of Bharat Ratna conferred on Netaji Subhas Chandra Bose as 'posthumous'.

XIV

: The contention of the Petitioner is denied.

XV & XVI

: The contentions of the petitioner in these paras are irrelevant and misconceived.

IIVX

: The contention of the petitioner in this ground is not correct and as such totally unfounded and uncalled for.

XVIII

: The contention of the Petitioner is irrelevant.

Government have accepted the main conclusion of the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji died on 18th August, 1945 in an air-crash at Taihoku.

XIX

: The contentions of the Petitioner are denied since these are his own views and submissions.

XX & XXI

: The contentions of the Petitioner are irrelevant since not only in 1978 but much later i.e. in 1991, Government of India again considered the matter and decided to accept the findings of the Khosla Commission that Netaji died in an aircrash on 18.8.1945 at Taihoku.

XXII ; The contentions of the Petitioner are denied since findings of the Khosla Commission have not been annulled by the Government of India so far and as such conferment of the award of Bharat Ratna posthumously on Netaji is not illegal.

XXIII : The contention of the Petitioner is misconceived and irrelevant.

XXIV : No comments since the Government has already closed the matter.

XXV : The contention of the Petitioner is misconceived and irrelevant. After the two inquiries, there was no decision at any time to order fresh inquiry.

XXVI & XXVII: As regards the freedom of information for citizens of India, as already stated in reply to the main petition of the Petitioner, freedom of information is not a fundamental right. However, about information relating to the death of Netaji, the stand of the Government has already been made clear in the statements made earlier in response to certain paras of the main petition of the Petitioner.

XXVIII & : As Government have already had two inquiries XXIX

in the matter, and have accepted the findings thereof that Netaji died in an air-crash, no useful purpose would be served by having any further inquiry.

XXX : Government are of the view that no useful purpose would be served by holding a fresh inquiry.

XXXI & : Since Government have accepted finding of both XXXII

Netaji Inquiry Committee and Khosla Commission to the effect that Netaji died in an air-crash

- 13 -

on 18th August, 1945 at Taihoku, there is nothing wrong in terming the award of Bharat Ratna on Netaji as 'posthumous'. However, as already clarified, Government is not proceeding any further in the matter and has treated the same as closed.

IIIXXX

: The contention of the Petitioner is irrelevant as there is no intention to hold a fresh inquiry.

XXXIV

: As regards the suggestion of the Petitioner that Government of India should order for a Commission to be constituted etc., it may be stated that the Government laid on Table of both the Houses of Parliament a Memorandum of Action Taken on the report of Khosla Commission on 3rd September, 1974, incorporating therein its decision to accept the findings of Commission that Netaji Subhas Chandra Bose died in an air-crash on 18th August, 1945, at Taihoku air-field in Taiwan. As such, no useful purpose would be served by having any other inquiry.

VXXX

: The contention of the Petitioner is misconceived and irrelevant. There is no intention to hold any further inquiry.

Para 29:

With reference to the contention of the Petitioner in para 29, it has already been clarified that in view of public reaction and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement dated 23rd January, 1992, not to take any further action in the matter and treat the matter as closed.

Para 30

: The contentions of the Petitioner are unfounded and uncalled for since two inquiries have already been held in the matter and there is no intention to hold a third inquiry.

- Para 31: As already stated, it is only on the basis of the acceptance by the Government of findings of Netaji Inquiry Committee and Khosla Commission to the effect that Netaji died in an air-crash on 18th August, 1945 at Taihoku that the award of Bharat Ratna has been termed as 'posthumous'.
- Para 32: These provisions will not apply as the award to Netaji was not notified at all. Only an announcement was made as the announcement itself seemed to raise a controvesy it was decided to treat the matter as closed and no notification at all was issued.
- Para 33 : It has been stated repeatedly that Government have no intention to hold another inquiry as no useful purpose will be served.
- Para 34 : Calls for no comments.
- Para 35 : It has been stated repeatedly that Government have no intention to hold another inquiry as no useful purpose will be served.
- Para 36 : This is a prayer of the Petitioner and calls for no comments.
- Para 37 : No comments.
 - Para 38: No comments except that no such leave was granted by the Hon'ble Court on 22nd September, 1993.

 As regards prayer of the Petitioner, it is respectfully submitted as under:
 - (a) (i to v) As far as Government are concerned, the whole matter is closed. The award to Netaji was only announced. It was not notified because even the very announcement raised a controversy. It was precisely in order to avoid any controversy that it was decid d to treat the matter as

closed.

- (b to f): Two inquiries have already been held in the past. The main conclusion of these inquiries, namely, that Netaji died in an air-crash at Taihoku on 18th August, 1945, has been accepted by Government. Government have no intention of holding a fresh inquiry.
- (g) : The prayer of the Petitioner calls for no comments.
- (h) : It is for the Hon'ble Court to take a decision in the matter.
- (i) : As already clarified, Government of India has already closed the matter and does not intend to take any further action.
- (j) : In view of the position as stated in response to prayer at (i) above, this prayer of the Petitioner needs outright rejection.
- In view of the submission made in response to the various paragraphs of the amended Writ Petition as also reply to various Grounds and Prayer, this amended Petition merits outright rejection and it is, therefore, prayed accordingly.

AFFIDAVIT-IN-OPPOSITION WITH REFERENCE TO AFFIDAVIT FILED BY PROF. SAMAR GUHA, ADDED RESPONDENT NO. 6.

It is not necessary to give detailed parawise comments on the affidavit filed by Prof. Samar Guha, Added Respondent No.6.

- 2. Added Respondent No.6 has done valuable research into the life and activities of Netaji Subhash Chandra Bose and he is entitled to his own views and beliefs.
- 3. The stand taken by the Government in this matter has already been made abundantly clear in all the affidavits already filed before the Hon'ble Court. Both the Shah Nawaz Committee and the Commission of Inquiry headed by Shri G.D. Khosla came to the conclusion that Netaji Subhash Chandra Bose died on 18th August, 1945 in an air crash at Taihoku. This conclusion has been accepted by the Government.
- 4. A Memorandum of Action Taken on the report of the Commission of Inquiry headed by Shri G.D. Khosla was laid before Parliament on 3rd September, 1974. It was stated in the said Memorandum that Government had examined the report of the Commission of Inquiry and had decided to accept the findings of the Commission that Netaji Subhash Chandra Bose died in an air crash on 18th August, 1945 at Taihoku. The said Memorandum was a public declaration of the conscious decision taken by the Government.
- 5. It is true that the Added Respondent No.6 does not agree with the findings of the Commission of Inquiry headed by Shri G.D. Khosla. In August, 1978 he had raised the matter in Parliament (Lok Sabha) and had made a Motion to reject the same and to hold a fresh inquiry into the alleged death of Netaji Subhash Chandra Bose. At that time, the then Prime Minister Shri Morarji Desai had made a statement (on 28th August, 1978) to the effect that reasonable doubts had been cast on the correctness of the conclusions reached in the

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reports of the Shah Nawaz Committee and the Commission of Inquiry headed by Shri G.D. Khosla, and that Government found it difficult to accept those conclusions as decisive. After this statement by the then Prime Minister, the Added Respondent No.6 withdrew the Motion made by him. He also admitted that there was no need for a fresh inquiry.

- 6. In February, 1991 Government considered the matter once again, and once again Government decided to accept the main conclusion of Shah Nawaz Committee and the Commission of Inquiry headed by Shri G.D. Khosla that Netaji Subhash Chandra Bose died in an air crash at Taihoku on 18th August, 1945. Government also decided that no useful purpose would be served by holding a fresh inquiry.
- 7. It was based on the aforesaid decision of the Government that the award of Bharat Ratna to Netaji Subhash Chandra Bose was regarded as posthumous. However, since even the announcement of the award by the President seemed to arouse a controversy, it was decided by the Government not to proceed any further in the matter and to treat the matter as closed. The award was not even notified by the Government. It was precisely in order to avoid any useless controversy that the Government decided to treat the matter as closed. It is not proposed by the Government to take any further action in the matter by way of presenting the decoration to the next-of-kin of Netaji Subhash Chandra Bose or to deposit the decoration with any institution. As far as the Government is concerned, the matter is absolutely closed and no further action will be taken.
- 8. The Hon'ble Court has to decide the issue in the main petition in the light of the position stated above.

V.P. BHATIA, UNDER SECRETARY (PUB. & VIG.). TEL.NO.3012421.

D.O. No. 1/27/91-Public.

Dated: 30-12-1993.

Dear Shri Kundu.

Kindly refer to your letter No.15/B/Home/92/787/767A dated 13.12.1993 addressed to Shri L.B. Sinate, Director in this Ministry and copy endorsed to me forwarding therewith a copy of the supplementary affidavit filed by Shri Amiya Nath Bose, an added respondent in C.O. No.6720(W) of 1993 filed by Bijan Ghosh and others versus Union of India and another in the High Court at Calcutta.

- 2. Parawise comments, as desired, have been prepared and a copy thereof is enclosed with the request to have the parawise comments settled expeditiously and the counter affidavit so settled returned to me at your earliest convenience to enable this Ministry to formally file the same in the High Court at Calcutta by the last date i.e. 8th January, 1994. I am also enclosing a copy of the supplementary affidavit filed by Shri Amiya Nath Bose for your ready reference and use.
- 3. In this connection your attention is also invited to my d.o. letter of even number dated 24th December, 1993 sent by fax enclosing therewith parawise comments in respect of three affidavits i.e. supplementary affidavit of Dr. Susanta Kumar Mitra; amended writ petition by Shri Bijan Ghosh and affidavit filed by Prof. Samar Guha. I hope the same would have been settled by now. It would be appreciated if the settled counter affidavits are sent to this Ministry at your earliest.

Please acknowledge receipt.

With regards,

Yours sincerely,

% (V.P. BHATIA)

SHRI S.K. KUNDU. CENTRAL GOVT. ADVOCATE, GOVERNMENT OF INDIA, MINISTRY OF LAW & JUSTICE, DEPARTMENT OF LEGAL AFFAIRS, BRANCH SECRETARIAT, CALCUTTA, 4, K.S. ROY ROAD, CALCUTTA-700001.

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BY SPEED POST

No. 1/27/91-Public

Dated: 30-12-1993.

Copy, along with a copy of the parawise comments in respect of the supplementary affidavit filed by Shri Amiya Nath Bose forwarded to Shri R.N. Das, Senior Panel Counsel, Calcutta High Court, 88 Chowrangee Road, Calcutta. I hope the three parawise comments along with copy each of the three affidavits earlier sent to you vide my d.o. endorsement of even number dated 24th December, 1993 would have been received by you and would be receiving your attention.

2. It is requested that the parawise comments now being sent may also kindly be settled at your earliest convenience. A copy of the supplementary affidavit filed by Shri Amiya Nath Bose is also sent herewith.

Wz

(V.P. BHATIA)
UNDER SECRETARY TO THE GOVT. OF INDIA.

M. vim andorsement.

In speed pod.

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PARAWISE COMMENTS IN RESPECT OF SUPPLEMENTARY AFFIDAVIT FILED BY SHRI AMIYA NATH BOSE, ADDED RESPONDENT IN THE WRIT PETITION C.O. NO.6720(W) OF 1993, FILED IN THE HIGH COURT OF CALCUTTA BY SHRI BIJAN GHOSH:

Para 1

: Calls for no comments.

Para 2

: No comments except that the contention of the added respondent that the subject matter of C.O. No.6720(W)/93 relates to an enquiry is not correct.

Paras 3 to 10

With reference to the contentions of the added respondent in paras 3 to 10, no comments are required as these are statements by the respondent based on his personal knowledge.

Paras 11 to 17

The contentions of the added respondent in paragraphs 11 to 17 are based on his personal knowledge and express his personal However, it may be stated that views. the Commission of Inquiry consisting of Shri G.D. Khosla, retired Chief Justice of the Punjab High Court had, in the course of its proceedings, given a full opportunity others testifying before it and to the added respondent and only after hearing them all came to the conclusion that Netaji died in an aircrash at Taihoku on 18th August, 1945. This finding of the Commission was accepted by the Government and the report along with the Memorandum of Action Taken thereon was laid on the Table of both the Houses of Parliament on 3rd September, 1974.

Paras 18 to 25 :

The contentions of the added respondent in paragraphs 18 to 25 call for no comments since these are his submissions based on his personal knowledge. As regards

the book written by Shri Khosla, its contents and its subsequent withdrawal, no comments are called for on the part of this respondent as the contents of that book do not in any way reflect the views of Government on Netaji Subhas Chandra Bose.

Para 26

The contention of the added respondent in paragraph 26 is denied since the matter was considered by the Government as late as in February, 1991 and it was decided that since two enquiries had already been held on the disappearance of Netaji and Government had already accepted that Netaji died in an aircrash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. This decision was taken long after the statement made in Parliament in 1978 by the then Prime Minister, Shri Morarji Desai.

Para 27

The contention of the added respondent in para 27 of the supplementary affidavit about the stay of Netaji in Russia in July, 1946, does not call for any comments in view of the acceptance by the Government of the finding of the two enquiries to the effect that Netaji died on 18th August, 1945 in an aircrash at Taihoku.

Paras 28 to 32

The contentions of the added respondent do not call for any comments since they are based on his personal knowledge.

Para 33

in para 33 as also in the main affidavit filed by him on May 7, 1993, deserve outright

rejection in view of the position stated in the affidavit-in-opposition filed on behalf of respondent No.1 in response to the added respondent's main affidavit and the position stated in the foregoing paragraphs in response to his supplementary affidavit.

Para 34

With reference to the contentions of the addedrespondent in para 34 of his supplementary affidavit, it is stated that it was decided to confer the award of Bharat Ratna posthumously on Netaji for the simple reason that Government had already accepted the main conclusion of the two enquiries held in the past namely that Netaji died in an air-crash on 18th August, 1945 at Taihoku.

As regards the documents relating to the award it is stated that an affidavit claiming privilege in respect of those documents has already been filed before the Hon'ble Court by the Secretary to the Government of India in the Ministry of Home Affairs. Government are of the view that it would be futile to hold any further inquiry into the matter of Netaji's death.

Paras 35 & 36

Paras 37 & 38

The contentions of the petitioner in paras 37 & 38 do not require any comments since these have no relevance to the conferment of Bharat Ratna posthumously on Netaji Subhas Chandra Bose.

Para 39

: Requires no comments.

In view of the position as already explained in response to the contentions of the added respondent in his main petition and the position now explained in response to his supplementary affidavit, the reliefs sought by the added respondent merit outright rejection. It is prayed accordingly.

BY SPECIAL MESSENGER

V.P. BHATIA,

UNDER SECRETARY (PUB. & VIG.), TEL. NO. 3012421.

DO. NO. 1/27/98-Public

Dear Shri Jha,

Dated: 30-12-1993.

As you are aware in the writ petition C.O. No.6720(W) of 1993 filed by Shri Bijan Ghosh, Petitioner against Union of India & another in the Calcutta High Court, Shri S.K. Kundu, Central Government Counsel at Calcutta has engaged Shri R.N. Das, Senior Panel Counsel to defend this case in the said High Court. In connection with this case we intend inviting Shri R.N. Das to Delhi for a discussion to settle certain points in the reply affidavits to be filed in the Calcutta High Court by 8th January, 1994. Shri Das has already been sounded to reach here by the evening of 1st January, 1994 for a meeting fixed for 2nd January, 1994.

- 2. I discussed this matter on phone with you and the expenses involved in connection with this journey from Calcutta to Delhi and back either by air in the economy class or by train will be borne by this Ministry. As regards the fees to be paid to him, you informed me that the same has to be decided by your Ministry.
- 3. In view of the above position, I would request you to kindly have this matter examined and let us know the fees to be paid to him for the duration of his stay in Delhi. I will be obliged for an early reply.

With regards,

Yours sincerely,

(V.P. BHATIA)

Shri U.K. Jha, Assistant Legal Adviser, Department of Legal Affairs, Shastri Bhavan, New Delhi.

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at 3.10 from 3011

V.P. Bhatia. Under Secretary FAX NO. 3015750

Dated, January 3, 1994

Dear Shri Kundu,

Reference your letter No.15/B/Home/93/786/761 A dated 9th December, 1993 addressed to Shri L.B. Sinate, Director in the Ministry regarding C.O. No. 6720(W) of 1993 filed by Shri Bijan Ghosh against Union of India and another.

- I contacted you on phone around 1.00 P.M. today but you were in the Court. As a result, I spoke to Shri Guptoo, Joint Secretary, Branch Secretariat, Calcutta and requested him to convey to you that we require the following: -
 - (1) A copy of the plain order passed by the Hon'ble Court on 6.12.1993 duly signed in ink by the Assistant Registrar (Court). This is required very urgently for consultation with Law Ministry here: and
 - (2) You might have already applied to the Registrar of the Court for supply of a Certified copy of the order dated 6.12.1993. If not done, that may kindly be done and certified copy so obtained sent to me by Speed Post.
- I shall be grateful if, as requested above, the plain copy of order dated 6.12.1993 duly signed in ink is sent by speed post.

With regards,

Yours sincerely,

(V.P. Bhatia)

(V.P. Bhatia)

Shri S.K. Kundu, Central Government Advocate, Ministry of Law & Justice (Deptt. of Legal Affairs), Branch Secretariat, 4, K.S. Roy Road, Calcutta-700001 (FAX NO. 033 2485215)

Copy to Shri Guptoo, JS, Branch Sectt., Ministry of Law & Justice, Calcutta with reference to my telephonic conversation this afternoon with him. An early action would be appreciated.

By FAT

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3.1.1994

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MESSAGE CONFIRMATION

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S. K. KUNDU CENTRAL GOVT. ADVOCATE

SPEED POST

No. 15/B/Home/93/3 | 11 A

Government of India Ministry of Law & Justice Department of Legal Affairs Branch Secretariat, Calcutta 4, K.S. Roy Road, Calcutta - 1

Dated 5.1.94

Shri B.P. Bhatia Undersecretary, Ministry of Home Affairs Govt. of India North Block New Delhi 110001

Dear sir,

C.O. No. 6720(w)/93 Bijan Ghosh -V S-UOI & Ors.

I understand from your D.O. mixix No.1/27/92-pub. dt.

3rd January 1994 as also from the telephonic talk which I had with you on 4th January 1994 that the affidavit-in-opposition which is to be filed to the different supplementary affidavits and the amended writ petition have been drafted and incorporated in the Affidavit-in-opposition which is being filed by the union of India on behalf of the respondent no.1. As the affidavit in-opposition filed by the Affidavit-in-reply to the affidavit-in-opposition filed by the writ petitioner on the application claiming previlege in the above mentioned case.

As per our telephonic conversations I am forwarding the orthogonal copy which has been received from the office of the Hon ble court for your necessary action thereon. It may not be out of place to mention in this connection that Mrs. Arati Dutta, Advocate has been instructed to file an application for urgent certified copy of the order dt.6th December, 1993. As I understand, she requires some money for this and also on account of expenses which has has already incurred on your behalf. Please send for the present Rs. 300/- direct to Mrs. Arati Dutta, Advocate for taking necessary action and for obtaining the certified copy and for appropriating the balance towards her dues.

> Encl: Plain copy of the order signed in ink as desired.

(5 K Rundynen 05/01/94

Yours faithfully,

Copy to : Mrs. Arati Dutta, Advocate, 6, Old Post Office Street, Room No.50, Calcutta - 1 - for information.

Please with sandy to

(S K) Kundu)

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District Calcutta

IN THE HIGH COURT AT CALJUTTA

Constitutional Writ Jurisdiction

(Appellate Side)

C.O. No.6720(W) of 1993
In the matter of

An application under Article 226 of the Constitution of India

And

In the matter of :
Bijon Ghosh 2000000

. Petitioner

and Added Respondents

Versus

Union of India & Ang.

Respondents

Affidavit in Opposition for and on behalf of Respondent No. 1.

I,

do hereby solemnly affirm and say as follows :-

- 1. I am and as such duly authorised and competent to make this Affidavit on behalf of Respondent No. 1.
- The Respondent No. 1 has been served through the Advocate Central Government, Ministry of Law and Justice Department of Legal Affairs, Branch Secretariate, Calcutta, The copies of the under mentioned Petition Affidavits:
 - i. A copy of the Writ Petition parported to the Amended Writ Petition Supported by the Affidavit and parported to the coffin by Sri Bijon Ghosh, the Writ Petitioner, with blank dates and blank affermation clause.
 - ii. A copy of the Supplementary Affidavit
 of Dr. Susanta Kumar Mitra dated blank

Jethed with mode Jethed with a protoled. Joseph of protoled. MBO

-: 2 :-

November, 1993.

- iii. A copy of the purported Affidavit of

 Shi Samar Guha without any date or without

 any affirmation clause.
 - iv. A copy of Supplementary Affidavit and
- I have read the copies of the Petition/Affidavits
 mentioned in Para 2 above and I have been understood contents thereof.

 I say that the Writ Petition initiated by Sri Bijon Ghosh, the
 parported Amended Writ Petition and the Affidavits of Added Respondents are not maintanable for the following reasons:-

ToxonferxtaexawardxofxBharatxRatna
taxXstajixSubhasxBosexandxaexxauch

- a. The brayer in the Original Writ Petition dated 18.1.93 relates to the President of India's decision to confer an award posthounsusly of Bharat Ratna to Netaji Subhas Bose and as such is not justiciable any Court of Law. In any event, keeping in view the widespread the public cannot sentiments the people and to avoid any unnecessary controversy, the Government for decided, not with state the public ration in the matter and to treat the matter as closed.
- b. The remaining prayers in the Original Writ relate of Petition, the subject matter the death of NSP Subhas Chandra Bose, As already stated in the Affidavit in Opposition dated 17.9.1993 filed on behalf of the Respondent No. 1 to the Original Writ Petition, The Government acceptathe findings of both the Netaji Enquiry Committee

Tandd 1 and 1 and 1

and the Khosla Commission to the effect Subhag Chandra Rose that Netaji, died in an Air Crash at

Taihoku on 18.8.45. The Khosla Commission Constituted was xxxx consisted under Section 3 of the Commission of the Enquiry Act, 1952, ander Notification No. 25/14/70 - Pall. I dalutility To.
The Government after examining the Report
(give particulars of the Notice appointing decided to alwer the findings of the Commission Committee of Knosla Commission). The

Report submitted by the Khosla Commission laid on the Table of both was duly placed before the Houses of Parliament under Sub-section(4) of Section 3 of the Commission of Enquiry Act, 1952. (After due deliberation and discuss

ion in the parliament the report submitted by the Khosla Commission was accepted

Since no direct evidence nor any eye Report which wir in inglest in a statutory witness has come in the Government in 1974 the cannot propen the Government

years jonoring the matter atter with 20

report of the Khosla Commission which

when there is no proposing any direct Chimdra evidence that Netaji Subhas Bose is still

Respondents are adbempling to get la directing the Govern-Courts Order

stage to make make enquiry

as to the whereabout of Netaji Subhas .

Bose.

c. The Perported Amended Writ Petition is nothing but a fresh new Writ Petition The in replacement of Original Writ Petition.

-: 4 :--

Starting from Charge Title to the Brayers in the purported Amended Writ Petition, substansive changes and alterations have been made changing the character of the Original Writ Petition and as such the said purported Amended Writ Petition is not maintenable in law.

- d.In the perported Amended Writ Petition and in the Affidavity filed by the Added Respondents issues have been raised which are not justiciable any Court of Law. In the perported Amended Writ Petition and as well as in the Affidavits in opposition filed on behalf of Added Respondents averments have been relating to proceeding fany Barliament which are not justiciable any Court of Law.
- e. The matters and question relating to the acceptance of Khosla Commission Report and the President's deicsion to confer an award of Bharat Ratna posthomously to Netaji Subhas Bose and decision of the Government not to proceed further in the matter related to questions is cannot be enquired by Court by the mandatory provision of Clause(2) of Article 74 of the Constitution of India.
- f.The Writ Petition, purported Amended Writ Petition and the Affidavit; copposition filed on behalf of the Added Respondents raise disputed questions of facts which cannot be adjudicated any writ proceeding.

- g.Neither the Writ Petitioner nor the Added Respondent; have alleged violation of any legal rights belonging to them and as such the Writ Petition is not maintenable.
- h.The Writ Petitioner and the Added Respondents are seeking an order from the Hon'ble Court directing the Government to make a fresh enquiry after nearly 50 years of disappearence of Netaji Subhas Bose as to where abouts.
- in the Petition bad in law and due to delay and latches.

 In the above circumstances the Writ Petition and the purported Amended Writ Petition is not maintanable and the same should be dismissed along with the Affidavit, lith, the Added Respondents
- Opposition to the maim Writ Petition and also some other Affidavity:

 in Opposition; to the affidavit; to the Added Respondent; filed earlies Save and except what have been specifically admitted in the affidavit; filed on behalf of Union of India, I denigo and disputed each and every allegation contained in the aforesaid perported Amended Writ Petition and the Affidavit; filed on behalf of the Added Respondent; mentioned in Para above, As if the said allegation; and averment; are stated in seriatim and denied.
 - The statements made in para; land in are true to my exupline first surface information and knowledge and those made in para; above are true to my belief derived from record which I believe to be true and those made made in para; 4 and 5, are my submissions before this Hon'ble Court.

The respondent No. 1 has already filed an Affadavit-in-Opposition to the main Writ Petition, to the Supplement Writ Petition, and filed by Shirt Petition, and filed by the main 17.9.93; to the application for ad interim injection, all by the main Petitioner, Shri Bijan Ghosh on 17.9.1993; Affadavit-in-Opposition to the Affadavit of Shri Amiya Nath Bose, added Respondent No. 3 on 2.9.1993; Affadavit-in-Opposition in response to Affadavit of Shri Sunil Krishna Gupta, added Respondent No. 4 on 29.9.1993.

(V) and Affadavit-in-Opposition in response to Affadavit filed by Dr. Susanta Kumar Mitra, added Respondent No. 5 on 6.12.1993.

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V.P. BHATIA, UNDER SECRETARY(PUB. & VIG.), TEL.NO.3012421.

D.O.No.1/27/91-Public.

Dated: 3-1-1994.

Dear Shri Das.

The Affidavit-in-Opposition to the purported Amended Writ Petition; Supplementary Affidavit of Dr. Susanta Kumar Mitra, added Respondent; purported Affidavit of Shri Samar Guha, added Respondent and Supplementary Affiavit affirmed by Shri Amiya Nath Bose, settled by you as also the Additional Solicitor General (Shri Altaf Ahmad) has been fair typed and duly sworn in. A copy of the sworn in Affidavit together with 8 spare copies is sent herewith as so kindly agreed to by you this morning for taking them personally to Calcutta to formally file in the Hon'ble High Court at Calcutta.

- Another Affidavit in reply to the Affidavit-in-Opposition by the Writ Petitioner to the Privilege Affidavit filed by Secretary, Ministry of Home Affairs, earlier settled by you, has also been fair types and duly sworn in. The Affidavit so sworn in along with 8 spare copies is also sent herewith for similar action.
- The inconvenience is very much regretted.

With regards,

Yours sincerely,

(V.P. BHATIA)

Shri R.N. Das, Senior Panel Counsel, High Court at Calcutta, Camp New Delhi.

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District Calcutta

IN THE HIGH COURT AT CALCUTTA Constitutional Writ Jurisdiction (Appellate Side)

C.O. No.6720(W) of 1993.

In the matter of :

An application under Article 226 of the Constitution of India.

AND

In the matter of :

Bijan Ghosh

... Petitioner

VERSUS

Union of India & Others

... Respondent
... Added Respondents.

Affidavit-in-Opposition for and on behalf of Respondent No.1:



- I, V.P. Bhatia, son of late Shri M.L. Bhatia aged about 50 years, by occupation, service, working for gain at New Delhi in the Ministry of Home Affiars, residing at 5/602, Lodhi Colony, New Delhi-110003, do hereby solemnly affirm and say as follows:
- 1. I am Under Secretary in the Ministry of Home Affairs,
 Government of India and am filing this Affidavit-in-Opposition
 for and on behalf of Respondent No.1 herein and I am acquainted
 with the facts and circumstances of the case.

I have been duly authorised and am competent to ale and affirm this Affidavit on behalf of the Respondent

3. The Respondent No.1 has been served through the Central Government Advocate, Ministry of Law and Justice, Department of Legal Affairs, Branch Secretariat, Calcutta,

copies of the under mentioned Petition/ Affidavits:-

- (i) A copy of the Writ Petition purported to be Amended Writ Petition supported by an Affidavit purported to be affirmed by Shri Bijan Ghosh, the Writ Petitioner, with blank date and blank affirmation clause.
- (ii) A copy of Supplementary Affidavit of Dr. Susanta Kumar Mitra dated blank November, 1993.
- (iii) A copy of purported Affidavit of Shri
 Samar Guha without any date or without
 any affirmation clause.
- (iv) A copy of the Supplementary Affidavit affirmed by Shri Amiya Nath Bose.
- I have read the copies of the Petition/Affidavits mentioned in Para 3 above and I have understood the contents thereof. I say that the Writ Petition initiated by Shri Bijan Ghosh, the purported Amended Writ Petition and the Affidavits of Added Respondents are not maintainable for the following reasons:-
 - In the Prayer (a) / Original Writ Petition dated 18.1.1993 relates to the President of India's decision to confer an award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose and as such is not justiciable in any Court of Law. In any event, keeping in view the widespread public reaction and sentiments of the people and to avoid any unnecessary controversy, the Government decided, notwithstanding the earlier announcement, not to take any further action in the



(a)

matter and to treat the matter as closed.

No cause of action, therefore, in this
behalf survives and any debate in this
regard is wholly academic.

(b)

The remaining prayers in the Original Writ Petition relate to the subject matter of the death of Netaji Subhas Chandra Bose. As already stated the Affidavit-in-Opposition dated 17.9.1993 filed on behalf of the Respondent No.1 to the Original Writ Petition, the Government accepted the findings of both the Netaji Inquiry Committee and the Khosla Commission to the effect that Netaji Subhas Chandra Bose died in an Air Crash at Taihoku on 18.8.1945. The Khosla Commission was constituted under Section 3 of the Commission of Inquiry Act, 1952, under Notification No.25/14/70-Poll. II dated 11-7-1970. The Government after examining the Report decided to accept the findings of the Commission. The Report submitted by the Khosla Commission was duly laid on the Table of both the Houses of Parliament in the year 1974 under Sub-section (4) of Section 3 of the Commission of Inquiry Act, Khosla Commission Report is a statutory Report which was accepted by the Government in 1974. The Government consider that it is futile to re-open the issues settled



The

as a result of Khosla Commission Report this distance of time when there credible direct evidence that Netaji Subhas Chandra Bose is still alive.

The Purported Amended Writ Petition (c) is nothing but a fresh new Writ Petition replacement of the Original Writ Petition. Starting from the Cause Title to the Prayers in the Purported Amended Writ Petition, substansive changes and alterations have been made changing the character of the Original Writ Petition and as such the said purported Amended Writ Petition is not maintainable in law.

> In the Purported Amended Writ Petition and in the Affidavits filed by the Added Respondents, issues have been raised which are not justiciable in any Court of Law. In the purported Amended Writ Petition and as well as in the Affidavits filed on behalf of Added Respondents averments have been made relating to proceedings before the Parliament which are not justiciable in any Court of Law.

> The matters and questions relating to of Khosla Commission the acceptance the President's decision and to confer an award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose and the decision of the Government not

(d)



maintainable.

(f)

to proceed further in the matter relate to questions which cannot be enquired in any Court by virtue of the mandatory provision of Clause (2) of Article 74 of the Constitution of India.

The Writ Petition, purported Amended

- Writ Petition and the Affidavits filed on behalf of the Added Respondents raise disputed questions of facts which cannot be adjudicated in any writ proceeding.

 (g) Neither the Writ Petitioner nor the Added Respondents have alleged violation of any legal rights belonging to them and as such the Writ Petition is not
- (h) The Writ Petitioner and the Added Respondents are seeking an order from the Hon'ble Court directing the Government to make a fresh inquiry after nearly 50 years after disappearance of Netaji Subhas Chandra Bose as to his whereabouts.
- (i) The Petition is bad in law due to delay and latches.

the above circumstances the Writ Petition

purported Amended Writ Petition are not maintainable

is same should be dismissed alongwith the Affidavits

the Added Respondents.

- 6. The Respondent No.1 has already filed an Affidavit-in-Opposition to the main Writ Petition and also the following Affidavits:-
- (i) Affidavit-in-Opposition to the Supplementary
 Writ Petition filed by Shri Bijan Ghosh: on 17.9.1993;
- (ii) Affidavit-in-Opposition to the application for ad interim injunction filed by Petitioner, Shri

Bijan Ghosh; on 17.9.1993;

- (iii) Affidavit-in-Opposition to the Affidavit of Shri Amiya Nath Bose, added Respondent No.3: on 22.9.1993;
- (iv) Affidavit-in-Opposition in response to Affidavit of Shri Sunil Krishna Gupta, added Respondent No.4: on 29.9.1993; and
- (v) Affidavit-in-Opposition in response to Affidavit filed by Dr. Susanta Kumar Mitra, added Respondent No.5:on 6.12.1993.

Save and except what have been specifically admitted in the Affidavits filed on behalf of Union of India, I deny and dispute each and every allegation contained in the aforesaid purported Amended Writ Petition and the Affidavit, filed on behalf of the Added Respondents mentioned in para 3 above, as if the said allegations and averments are set out in seriatim and denied.

The statements made in paras 1, 2 & 4 (first sentence) are true to my knowledge and those made in paras 3 and 4 (except the first sentence) above are true to my information and belief derived from records which I believe, to be true and those made in paras 5 and believe are my submissions before this Hon'ble Court.

DEPONENT

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IFICATION:

I, the abovenamed deponent, do hereby verify the contents of the above Affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 3rd January, 1994.

Prohabi

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 3rd January, 1994, at my office at

was declared on solar after stice before me which has be a solar after the the deponent who has minimized in the spenert.

Approximate

(Chander B. Arya)
Notary/Adverses

Notary DELLE

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Register Sl. No.

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DISTRICT: CALCUTTA

IN THE HIGH COURT AT CALCUTTA CONSTITUTIONAL WRIT JURISDICTION (APPELLATE SIDE)

C.O. NO.6720(W) OF 1993

IN THE MATTER OF:

AN APPLICATION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

AND

IN THE MATTER OF:

SHRI BIJAN GHOSH

... PETIONER

VERSUS

UNION OF INDIA & ANR.

... RESPONDENTS

AFFIDAVIT IN REPLY TO THE AFFIDAVIT-IN-OPPOSITION BY THE WRIT PETITIONER TO THE AFFIDAVIT OF SHRI N.N. VOHRA, SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF HOME AFFAIRS CLAIMING PRIVILEGE UNDER SECTION 123 AND 124 OF THE EVIDENCE ACT READ WITH ARTICLE 74(2) OF THE CONSTITUTION OF INDIA:

- I, V.P. Bhatia, son of late Shri M.L. Bhatia aged about 50 years, by occupation service working for gain at New Delhi in the Ministry of Home Affairs, residing at 5/602, Lodhi Colony, New Delhi-110003, do hereby solemnly affirm and say as follows:-
- 1. I am Under Secretary in the Ministry of Home Affairs, Government of India and duly authorised and competent to affirm this affidavit for and on behalf of the respondent No.1 herein.
- 2. I have been duly authorised and am competent to make and affirm this affidavit on behalf of the Respondent No.1.
- 3. I have read a copy of the Affidavit-in-Opposition affirmed on 18th November, 1993 (hereinafter referred to as the said affidavit) and understood the purport and contents thereof.



-2- 492

- 4. Save and except the statements expressly admitted hereinafter and save and except what appears from the all record, Allegations contrary thereto and/or inconsistent therewith shall be deemed to have been denied and disputed by me.
- 5. Fully relying on the above, I now beg to deal with the statements or allegations contained in the said affidavit.
- 6. With reference to paragraph 4 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that as already averred in the affidavit-in-opposition in response to the said affidavit and supplementary application etc. filed by the petitioner, the contentions now made out in para 4 are without any merit and are denied.
- 7. With reference to paragraph 5(a) of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are uncalled for as the affidavit concerned has been affirmed properly and in accordance with law.
- 8. With reference to paragraph 5(b) to (g) of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are emphatically denied. The order of the Hon'ble Court to produce the relevant records has been considered very carefully. The reasons for withholding permission to produce the records are stated clearly in the affidavit of the Secretary, Ministry of Home Affairs.

9. With reference to paragraph 5(h & i) of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the claim of privilege is in accordance with the provisions of Sections 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India, and has been made after due application of mind.

10. With reference to paragraph 5(j) of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are emphatically denied in view of the position already stated in reply to para 5(a) to (g).

11. With reference to paragraph 6 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are unfounded and misconceived. The claim of privilege has been made with regard to the legal and constitutional provisions. Further, the claim of privilege has been made only after due application of mind and with reference to the contents of the relevant records.

12. With reference to paragraph 7 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

I state that the contentions of the deponent are emphatically denied.

13. With reference to paragraph 9 of the said affidavit, save

as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

I state that the position taken by the deponent is wrong and merits

or of bods pouright rejection.

as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the submission of the deponent in para 11 is totally out of place as in para 1 of the affidavit of Secretary to the Government of India, Ministry of Home Affairs, claiming privilege in respect of

the records ordered to be produced, a reference has been made to the order of the Hon'ble Court for the production of all the records pertaining to the declaration of the award of Bharat Ratna posthumously to Netaji Subhas Chandra Bose.

- 15. With reference to paragraph 12 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

 I state that the contention of the deponent is frivolous.
- 16. With reference to paragraph 13 of the said affidavit, save all as aforesaid and save what appears from the records inconsistent therewith are denied and disputed. I state that the contentions of the deponent are misconceived.
- as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the allegations of the deponent are baseless and incompetent.

 18. With reference to paragraphs 15 & 16 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent with reference to para 5 of the affidavit of the Secretary to the Government of India, Ministry of Home Affairs, are his own presumptions and are not based on factual knowledge about the relevant records, notes and minutes by officers and Ministers on files and papers submitted to Cabinet Committee on Political Affairs and its decision thereon.
- 19. With reference to paragraph 17 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed.

 I state that the contentions of the deponent are not based on factual

knowledge of the relevant records and their contents and are denied.

20. With reference to paragraph 18 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are entirely misconceived.

With reference to paragraph 19 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the findings of the Netaji Inquiry Committee (1956) and of the Khosla Commission as also the statement of the former Prime. Minister, Shri Morarji Desai made in Parliament in the year 1978, were fully known to the Government while declaring the award of Bharat Ratna 'posthumously' to Netaji Subhas Chandra Bose on 23rd January, 1992. The matter was considered by the Government later in February, 1991 and it was decided that since two inquiries had already been held on the disappearance of Netaji, and Government had already accepted the Reports which held that Netaji died in an aircrash on 18th August, 1945 at Taihoku, no useful purpose would be served by holding another inquiry. In view of this position, the contentions of the deponent are misconceived, unfounded and without any basis. It is further denied that the claim of privilege is a myth.

allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that it is true that some Members of Parliament had raised the matter of conferring the award of Bharat Ratna on Netaji Subhas Chandra Bose. However, the process of giving an award is not as simple as that. All related considerations have to be taken into a that highest level has also to be gone through. As regards the declaration of Bharat Ratna 'posthumously' to Netaji Subhas Chandra Bose, the position has already been stated in response to the deponent's contentions in earlier paragraphs.

23. With reference to paragraph 21 of the said affidavit, save as aforesaid and save what appears from the records,

all allegations contrary thereto and/or inconsistent therewith

are denied and disputed. I state that the matter of production

With reference to paragraph 20 of the said affidavit,

22.

of relevant records has been considered very carefully before claiming privilege under Section 123 & 124 of the Evidence Act read with Article 74(2) of the Constitution of India.

- 24. With reference to paragraph 22 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are frivolous and are denied.
- 25. With reference to paragraph 23 of the said affidavit, save as aforesaid and save what appears from the records, all allegations contrary thereto and/or inconsistent therewith are denied and disputed. I state that the contentions of the deponent are denied inasmuch as the Note for the Cabinet Committee on Political Affairs on the subject of the dispute regarding the ashes of Netaji Subhas Chandra Bose and also the controversy whether he is dead or alive and the decision of the Cabinet Committee thereon are covered under Article 74(2) of the Constitution of India read with Sections 123 & 124 of the Evidence Act.
- 26. With reference to paragraph 26 of the said affidavit, save as aforesaid and save what appears from the records,

all allegations contrary thereto and/or inconsistent therewith denied and disputed.

That the statements made in paragraphs 1 to 5 are true my knowledge and those contained in paragraphs 6 to

y information derived from the records

bedeve to be true.

DEPONENT

VERIFICATION:

I, the above named deponent, do hereby verify the contents of the above affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 3rd January, 1994.

DEPONENT

ly affirmed and signed before me by the ent who is personally known to me on this and day of January, 1994 at my office at

was declared on solemn affirmation before me which has been read over to the deponent who has admitted is as

correct.

NOTATE DEL H

(Chander B. Arya)
Notary Advocate

-3 JAN 1994

Register Sl. No.

Ministry of Law & Justice Department of Legal Affairs Central Agency Section

Pleased below the copy of the draft S.L.P. on the draft of the opinion given by Ata Mand and drafted by B. Madhasaday /S.L.P. and stay petition for persual.

The same may please be return immediately to this office after peruals alongwith the following further documents etc.

- Vakalatnama only signed by the competent authority in favour of the undersigned.
- 2. Day to day reasons for delay in filing the petition before this Hon'ble Supreme Court of India (if the matter is time barred).
- Copies of the annexures as mentioned in the draft petition.
- Original Certified copy of the impugned judgement..
- Name, designation and telephone no of the officer who will swear the affidavit in a support of the petition.
- 6. The affidavit has to be signed by Under Secretary to the Govt. of India or a Director of the Department, DM Addl. D.A. D.P.O. Addl. D.P.O. of the Railway.
- 7. Latest correct address of the petitioners and respondent.

 Nate:-Limitation expiring/Expired on______

It is requested to keep in tough with in this office till the matter is filed in the Hon'ble Court of India.

Mo. Home Affan	Public Scoting	Superintendent (L) Nuclear Clause
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CASE DY. NO.		DT.

CASE FILE NO. 94 W CAS, ett. 7/1/94.
Rs.1000/-Rs.750/-(Rs.One thousand/ Seven bundred and fifty only) For court fee and other Misc/Expenses in favour of Central Agency Section M/s.Law & Justice, D/Legal Affairs, before filing the petition in the Hon'ble Supreme Court.

on Egy

IN THE SUPREME COURT OF INDIA CIVID A PPELLATE JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL(C)NO._____ of 1994

IN THE MATTER OF :

UNION OF INDIA

.-.-. Petitioner

Versus

- 1) Bijan Ghosh
- 2) Sushanta Kumar Mitra -.-.-Respondents

OF THE CONSTITUTION OF INDIA.

To

The Hon'ble Chief Justice of India and His companion Justices of the Hon'ble Supreme court of India.

The humble petition of the petitioner above named

MOST RESPECTFULLY SHEWETH:

1) That this is a petition for special leave to appeal against the Order dated 6th December, 1993 of the learned Single Judge of the

Calcutta High court in @ no.6720(W) of 1993.

- That the petition for special leave to appeal raises substantial questions of law of general public importance as under:
- (a) Whether on a true reading of the provision of Sections 123 and 124 of the E vidence Act readwith Article 74(2) of the Constitution of India, the High court was right in law in making an order for the production of the unpublished official records relating to the affairs of the S tate and which contained communications by Public officers in official conference?

 (b) Whether the High court was right in
- (b) Whether the High court was right in
 law in exercising its jurisdiction
 under Article 226 of the Constitution
 of India relating to the policy
 matter of the state ?
- (c) Wheber the High court was right

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Consideration before
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in law in requiring production of
the official records when the question
in issue has been closed and the writ
petition has been infructuous?
The facts leading to the present appeal

are as under :

- a writ petition under Atticle 226 of the

 Constitution of India challenging the declaration
 of the Award of 'Bharat Ratna' postumuosly on

 Netaji Subash Chander Bose on the grounds
 amongsts others that the same is contrary to the

 provision of Article 18 of the Constitution of

 India.
- (b) That the petitioner herein contested the said writ petition by filing a detailed counter. A true copy of the said affidavit in opposition is hereto annexed and marked as A nnexure—A.

It may be mentioned here that though

the Award was announced postumuously on Netaji, the Award was not notified and the stage of notification did not arise and in view of the very announcement of the Award provoked some adverse reactions in various quarters and also considering the reaction and with a view to avoid any unnecessary controversy, the Government, not to proceed any further in the matter and to treat the matter as closed.

- the Secretary of the Government of India

 Sri N.N.Vohra filed an affidavit claiming

 privilege under sections 123 and 124 of the

 E-vidence Act readwith Article 74(2) of the

 Constitution of India dated 28th September, 93

 in view of the directions given by the High to

 produce all records pertaining to the declara—tion

 of the Award.
- (d) That on 6/12/93 when the matter was taken up for hearing by the learned Single Judge of the High court, it was informed

contd...

to the court of the above position and the learned Addl. Solicitor General who appeared on behalf of the Union of India prayed that the max writ petition may be dismissed in view of the fact that the matter has been closed by the Government of India and What the alleged cause of action has ceased to exist.

the petitioner to produce the decision taken
as to how the matter has been closed. It was
further directed that necessary filed by produced
by the Government before the court on the rext
da te of hearing i.e.19.1.1994.

The court also directed that relevant records be placed, before the court which would show as to what lead the Government to review its own decision and to take a fresh decision.

- 4) That the petitioner has not filed earlier any special leave petition before this Hon'ble court against the impugned order.
- 5) It is further submitted that the

Division Bench of the High court against the imp-ugned order of the learned Single Judge of the High court in view of the special circumstances prevailed in the case. If for any reason this Hon'ble court comes to the view that the petitioner ought to have moved the High court before approaching this Hon'ble court.

5) That aggrieved by the Order dated 6.12.1993 of the learned single Judge of the Calcutta High court in ∞ No.6720(W) pf 1993, the petitioner herein prefers this special leave petition on the following amongst other

GROUNDS

- (A) The impugned order of the High court is contrary to law.
- (B) The High court failed to appreciate that the order made by the High court directing production of the files relating to the decision to close

centd...

the matter is beyond the scope of the writ petition and the High court has no jurisdiction, whatsoever, to give such direction.

- (C) The High court failed to appreciate that once the matter having been closed the writ petition has become infructuous and the High court ought to have ordered the disposal of the writ petition on the said ground.
- that there cannot be any direction or inquiry with regard to the decision relating to closure of the matter until and unless any complaint is made regarding illegality of such closure or any malafide on the part of the government or any individual functionary of the government.
 - (E) The High court failed to appreciate that the order direction production of the

records relating to the decision to review the matter and close the matter is outside the scope of the writ and is beyond the jurisdiction of the High Gourt under Article 226 of the Constitution of India.

(F) In any view of the matter, the order made by the High court in the instant case is lia-ble to be set-aside.

PRAYER

It is, therefore, most respectfullly prayed that this Hen'ble court may be pleased:

- (a) to grant special leave to appeal against the order dated 6.12.93 of the Ld.Single Judge of the Calcutta High court in ∞ No.6720(W) of 1993.
- (b) to pass such other order or orders as this

 Hon'ble court may deem fit and proper.

DRAWN BY:

FILED BY

(B. Parthasarathi)
AAdvecate.

ADVOCATE FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

I A.No.____ of 1994

IN

Special Leave Petition (Civil) No._____of 1994

IN THE MATTER OF :

UNION OF INDIA - .- .- . Petitioner

Versus

BIJAN GHOSH AND ANR..... Respendents.

PETITION FOR EXPARTE ADINTERIM STAY.

To

The Hon'ble Chief Justice of India and His companion Justices of the Hon'ble S upreme court of India.

The humble petition of the petitioner above named

MOST RESPECTFULLY SHEWETH :

That the petitioner has filed the special leave petstion before this Hon'ble court against the order dated 6.12.1993 of the learned Single Judge of the Calcutta High court in ∞ No.6720(W) of 1993.

- That the petitioner has been directed
 to produce relevant records regarding the decision
 to close the matter by the Government of India
 om 19.1.1994 before the learned Single Judge of
 the High court.of Calcutta.
- question is a purely policy matter of the Government of India and the High court has no jurisdiction, whatsoever, in the instant case to seek to look at the files. Further, the matter having become infructuous, the High court has no jurisdiction, whatsoever, to go into the propriety or otherwise of the decision.
- 5) It is, therefore, submitted that it will be in the interest of justice that the petitioner be granted exparte adinterim stay pending the appeal and pending the Notice of Metition to the respondents.
- 6) It is further submitted that no prejudice

will be caused to the respondents if the stay as prayed for is granted in favour of the petitioner.

PRAYER

It is, therefore, most respectfully prayed that this Hen'ble court may be pleased:

- (a) to grant exparte adinterim stay of the operation of the order dated 6-12-93 of the ld.Single Judge of the Calcutta High court in ∞ No.6720(W) of 1993.
- (b) to confirm prayer (a) BY NOTICE OF MOTION to the respondents.
- (c) to pass such other order/orders as this

 Hon'ble court may deem fit and proper.

DRAWN BY:

FILED BY

hasarathi) Advocate. ADVOCATE FOR THE PETITIONER

V.P. BHATIA, UNDER SECRETARY(PUB. & VIG.), TEL.NO.3012421.

D.O. NO.1/27/91-Public.

Dated: 9-1-1994.

Dear Shri Parmeswaran,

Kindly refer to Central Agency Section Dy. No. 55/94/U-CAS dated 7.1.1994 forwarding therewith petition for special leave under Article 136 of the Constitution of India in the matter of C.O.No. 6720(W) of 1993 filed by Shri Bijan Ghosh in the High Court at Calcutta challenging the conferment of Bharat Ratna posthumously on Netaji Subhas Chandra Bose together with a petition for stay with a Prayer for ex-parte ad interim stay and another petition for exemption from filing the certified copy of the Order dated 6.12.1993. Shri M. Venkateswara Iyer, Joint Secretary in this Ministry had a word with Addl. Solicitor General on these petitions and the latter confirmed that he has already seen these petitions and gave a green signal for fair typing of these papers. Accordingly, an original copy on green sheet of these petitions together with a covering page reflecting the Index of pages together with 15 spare copies, complete in all respects are sent herewith for formally filing in the Registry of the Supreme Court.

- 2. As desired in the reference above cited, a Vakalatnama duly signed by the undersigned in your favour is enclosed. The affidavit mentioned in Item 4 duly completed by me is also enclosed. The latest address of the Petitioner and the Respondents in question, as per available records have been incorporated in the petition for special leave to appeal itself.
- 3. A cheque for Rs.1,000/- in favour of Central Agency Section, Ministry of Law, Justice and Company Affairs, Department of Legal Affairs towards Court fee and other miscellaneous expenses will be sent separately during the day.
- 4. I shall be grateful if further action for filing this petition for special leave to appeal and other petitions in the Supreme Court is taken very urgently and this Ministry informed of the position.
- 5. It is also requested that an application may also be filed requesting the Hon'ble Supreme Court for early hearing of the matter keeping in view the fact that the next date of hearing of this case in the High Court at Calcutta is 19th January, 1994. In case an early hearing can be ensured and otherwise, then such an application may not be necessary.

With regards,

Yours sincerely,

(V.P. Bhatia)

Shri P. Parmeswaran,

Deputy Government Advocate,

Min. of Law & Justice, Central Agency Section,

Supreme Court of India Building, New Delhi.

Come File Most

an

UNDER BHATIATARY (PUB. &VIG.)
TEL.NO.3012421

D.O.NO.1/27/91-Public

Dated: 11th January, 1994

Dear Shri Parmeswaran,

In continuation of my D.O. letter of even number dated 9th January, 1994 (delivered in the morning of 10th January, 1994 in your office). I am sending herewith a Cheque No.039803 dated 10th January, 1994 drawn on the State Bank of India, Central Sectt. Branch, New Delhi for an amount of Rs.1,000/-(Rupees one thousand only) towards Court Fee and other miscellaneous expenses in the filing of S.L.P. in the matter of C.O.No.6720(W) of 1993 filed by Shri Bijan Ghosh in the High Court at Calcutta against Union of India.

2 acknowledgement of this cheque. fficial receipt in

With regards,

Ends' are chapes

Yours sincerely,

(V.P. BHATIA)

Shri P. Parmeswaran, Additional D. Govt. Advocate, Min. of Law and Justice, Central Agency Section, Supreme Court of India Building, NEW DELHI

Willer



D.K. Jha. Asst. Legal Adviser, Ph.388435.

भारत सरकार GOVERNMENT OF INDIA विधि. न्याय और कम्पनी कार्य मंत्रालय MINISTER OF LAW, JUSTICE & COMPANY AFFAIRS विधि कार्य विभाग DEPARTMENT OF LEGAL AFFAIRS

D.O.F.Ne. 22(2)/94-Judl. New Delhi, 11th Jan., '94.

Dear Shri Bhatia,

Kindly refer to your D.O. letter No. 1/27/91-Public dated 30.12.1993 regarding the fees to be paid to Shri R.N. Das, Sr. Panel Counsel for the duration of his stay in Delhi in connection with W.P. CO Ne. 6720(W) of 1993 filed by Shri Bijan Ghesh against UOI. The competent Authority has approved a fee of &.1000/- only as daily fee for absence frem Headquartess. The photocopy of the approval order is enclosed for your ready reference.

With regards,

Yours sincerely,

(U. K. Jha)

Encl: as above.

Shri V.P. Bhatia, Under Secretary (Pub. & Vig.). M/e Heme Affairs, North Bleck, New Delhi-110001.

24/0/8/193

Department of Legal Affairs
Judicial Section

PUC

The Ministry of Home Affairs have requested for the quantum of daily fee payable to a panel counsel in the Calcutta High Court for his visit to Delhi, on the request of the Department for a discussion to settle certain points in the Writ Petition C.O.No.6720(W) of 1993 in the Calcutta High Court.

- 2. Shri R.N. Das, Senior Panel Counsel has been engaged by the Calcutta Branch Secretariat in the matter. The counsel has been called by the Ministry of Home Affairs for a discussion. As per the revised terms and conditions applicable to panel counsel in Calcutta High Court, if the counsel is required to go out of Headquarters in connection with Central Government litigation, he will be entitled to a daily fee to be decided by the Department of Legal Affairs, can the basis of per day of appearance for the days of his absence from the Headquarters including the days of departure from, intervening holidays and arriving back to the Headquarters
- 3. A Senior Panel Counsel is entitled to a maximum fee of Rs.935/- (i.e.55 gms) per day for hearing in High Court. Keeping in mind that the counsel will be away from the Headquarters, we may approve a fee of Rs.1000/- only as daily fee for absence from Headquarters to Shri R.N. Das.

ARREA

(U.K. JHA)
Assistant Legal Adviser.
7.1.1994

Submilted for approval of As.

A.s. Con vice

Ad L. A (mi muhy)

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